

Irrigation and M&I
Contract No. 14-06-200-229AD

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
ARVIN-EDISON WATER STORAGE DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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11 THIS CONTRACT, made this 1st day of NOVEMBER, 2010, is entered
12 into pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary
13 thereto, including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956
15 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986
16 (100 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and
17 Title X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San
18 Joaquin River Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively
19 hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF
20 AMERICA, hereinafter referred to as the United States and ARVIN-EDISON WATER
21 STORAGE DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of
22 California, duly organized, existing, and acting pursuant to the laws thereof, with its principal
23 place of business in California;

24 WITNESSETH, That

EXPLANATORY RECITALS

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26

[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

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[2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

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[3rd] WHEREAS, the United States and the Contractor entered into Contract Number 14-06-200-229A, as amended, which established terms for the delivery to the Contractor of Project Water from the Friant Division from August 30, 1962 through February 28, 1995; and

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[4th] WHEREAS, the Contractor and the United States have, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into interim renewal contract(s), identified as Contract Number (s) 14-06-200-229A-IR1, IR2, IR3, and IR4, which provided for the continued water service to Contractor from March 1, 1995 through February 28, 2001, and subsequently entered into a long-term renewal contract identified as Contract Number 14-06-200-229A-LTR1, which provided for continued water service to

45 Contractor through February 28, 2026, which was amended January 18, 2007, and is herein
46 referred to as the “Existing Contract”; and

47 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
48 United States has acquired water rights and other rights to the flows of the San Joaquin River,
49 including without limitation the permits issued as the result of Decision 935 by the California
50 State Water Resource Control Board and the contracts described in subdivision (n) of Article 3
51 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers
52 Project Water stored or flowing through Millerton Lake in accordance with State and Federal law
53 for the benefit of Project Contractors in the Friant Division and for other specified Project
54 purposes; and

55 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is
56 Project Water developed through the exercise of the rights described in the fifth (5th) Explanatory
57 Recital of this Contract; and

58 [7th] WHEREAS, as a result of litigation entitled “Natural Resources Defense Council,
59 et al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant
60 Division entered into a Stipulation of Settlement dated September 13, 2006, (the “Settlement”),
61 which settlement prescribes a Restoration Goal and a Water Management Goal and which
62 Settlement was subsequently confirmed and implemented through the SJRRSA; and

63 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the
64 Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August
65 4, 1939, no later than December 31, 2010, and further directs that such contract shall require the

66 accelerated repayment of the Contractor's allocated share of construction costs, either as a lump
67 sum payment by January 31, 2011 or in annual installments by January 31, 2014, which funds
68 will in turn be made available for implementation of the Settlement and SJRRSA, and which
69 costs otherwise would have been payable through annual water rates, with full repayment by
70 2030; and

71 [9th] WHEREAS, such repayment of costs will assist the United States with
72 implementation of actions required under the Settlement and the SJRRSA and provide the
73 Contractor the benefits provided in Section 10010 of the SJRRSA; and

74 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act)
75 directs the Secretary to provide that the other party to any contract entered into pursuant to
76 subsection (d) of Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to
77 subsection (e) of Section 9 of the Act of August 4, 1939 (water service contract) shall "have the
78 first right (to which the rights of the holders of any other type of irrigation water contract shall be
79 subordinate) to a stated share or quantity of the project's available water supply for beneficial
80 use on the irrigable lands within the boundaries of, or owned by, the party and a permanent right
81 to such share or quantity upon completion of payment of the amount assigned for ultimate
82 return" by the contractor subject to fulfillment of all obligations under the contract; and

83 [11th] WHEREAS, among other things, this Contract includes provisions granting the
84 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

85 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
86 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for

87 reasonable and beneficial use and/or has demonstrated projected future demand for water use
88 such that the Contractor has the capability and expects to utilize fully for reasonable and
89 beneficial use the quantity of Project Water to be made available to it pursuant to this Contract;
90 and

91 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon
92 by urban and agricultural areas within California for more than fifty (50) years and is considered
93 by the Contractor as an essential portion of its water supply; and

94 [14th] WHEREAS, the economies of regions within the Central Valley Project,
95 including the Contractor's, depend upon the continued availability of water, including water
96 service from the Central Valley Project; and

97 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and
98 partnerships to pursue measures to improve water supply, water quality, and reliability of the
99 Project for all Project purposes; and

100 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
101 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
102 repayment of the Central Valley Project as required by law; to guard reasonably against Project
103 Water shortages; to achieve a reasonable balance among competing demands for use of Project
104 Water; and to comply with all applicable environmental statutes, all consistent with the legal
105 obligations of the United States relative to the Central Valley Project; and

106 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a
107 need exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to

108 meet flood control criteria (currently referred to as “uncontrolled season”), taking into
109 consideration, among other things, anticipated upstream reservoir operations and the most
110 probable forecast of snowmelt and runoff projections for the upper San Joaquin River, Friant
111 Division Project Contractors utilize a portion of their undependable Class 2 Water in their
112 service areas to, among other things, assist in the management and alleviation of groundwater
113 overdraft in the Friant Division service area, provide opportunities for restoration of the San
114 Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage
115 optimal water management, and maximize the reasonable and beneficial use of the water; and

116 [18th] WHEREAS, the parties desire and intend that this Contract not provide a
117 disincentive to the Friant Division Project Contractors continuing to carry out the beneficial
118 activities set out in the Explanatory Recital immediately above; and

119 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all
120 of its obligations under the Existing Contract.

121 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
122 contained, it is hereby mutually agreed by the parties hereto as follows:

123 DEFINITIONS

124 1. When used herein, unless otherwise distinctly expressed or manifestly
125 incompatible with the intent of the parties as expressed in this Contract, the term:

126 (a) “Additional Capital Obligation” shall mean any additional construction
127 costs or other capitalized costs incurred after the effective date of this Contract or not reflected in
128 the Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any

129 amounts payable by Contractor as determined through the final adjustment described and
130 required by Section 10010(b) of the SJRRSA;

131 (b) "Calendar Year" shall mean the period January 1 through December 31,
132 both dates inclusive;

133 (c) "Charges" shall mean the payments required by Federal Reclamation law
134 in addition to the Rates and Tiered Pricing Components specified in this Contract as determined
135 annually by the Contracting Officer pursuant to this Contract and consistent with the SJRRSA;

136 (d) "Class 1 Water" shall mean that supply of water stored in or flowing
137 through Millerton Lake which, subject to the contingencies hereinafter described in Articles 3,
138 12, and 13 of this Contract, will be available for delivery from Millerton Lake and the
139 Friant-Kern and Madera Canals as a dependable water supply during each Year;

140 (e) "Class 2 Water" shall mean that supply of water which can be made
141 available subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this
142 Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to
143 the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence,
144 such water will be undependable in character and will be furnished only if, as, and when it can be
145 made available as determined by the Contracting Officer;

146 (f) "Condition of Shortage" shall mean a condition respecting the Project
147 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the
148 Contract Total;

149 (g) “Contracting Officer” shall mean the Secretary of the Interior’s duly
150 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law
151 or regulation;

152 (h) “Contract Total” shall mean the maximum amount of Class 1 Water plus
153 the maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract
154 and is the stated share or quantity of the Project’s available water supply to which the Contractor
155 will have a permanent right in accordance with the 1956 Act and the terms of this Contract, upon
156 the Contractor’s complete payment of the Repayment Obligation, notwithstanding any
157 Additional Capital Obligation that may later be established, which right shall not be disturbed so
158 long as the Contractor fulfills all of its obligations under this Contract;

159 (i) “Contractor’s Service Area” shall mean the area to which the Contractor is
160 permitted to provide Project Water under this Contract as described in Exhibit “A” attached
161 hereto, which may be modified from time to time in accordance with Article 36 of this Contract
162 without amendment of this Contract;

163 (j) “CVPIA” shall mean the Central Valley Project Improvement Act, Title
164 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

165 (k) “Eligible Lands” shall mean all lands to which Irrigation Water may be
166 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
167 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

168 (l) "Excess Lands" shall mean all lands in excess of the limitations contained
169 in Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
170 Reclamation law;

171 (m) "Existing Capital Obligation" shall mean the remaining amount of
172 construction costs of the Contractor identified in the Central Valley Project Irrigation Water
173 Rates and/or Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as
174 adjusted to reflect payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A)
175 of the SJRRSA. The Contracting Officer has computed the Existing Capital Obligation in a
176 manner consistent with the SJRRSA and such amount is set forth in Exhibits "C-1" and "C-2",
177 incorporated herein by reference;

178 (n) "Financing Costs", for purposes of computing the reduction of certain
179 charges as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference
180 between the net present value of the Existing Capital Obligation discounted using the full
181 Treasury rate and the Existing Capital Obligation discounted using one-half the Treasury rate, as
182 set forth in Section 10010(d)(3) of the SJRRA;

183 (o) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)
184 or 202(3) of the RRA, whichever is applicable;

185 (p) "Ineligible Lands" shall mean all lands to which Irrigation Water may not
186 be delivered in accordance with Section 204 of the RRA;

187 (q) "Irrigation Full Cost Water Rate" shall have the same meaning as "full
188 cost" as that term is used in Paragraph (3) of Section 202 of the RRA;

189 (r) "Irrigation Water" shall mean water made available from the Project that
190 is used primarily in the production of agricultural crops or livestock, including domestic use
191 incidental thereto, and watering of livestock;

192 (s) "Landholder" shall mean a party that directly or indirectly owns or leases
193 nonexempt land, as provided in 43 CFR 426.2;

194 (t) "Long Term Historic Average" shall mean the average of the final forecast
195 of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced
196 in the third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

197 (u) "Municipal and Industrial (M&I) Water" shall mean water made available
198 from the Project other than Irrigation Water made available to the Contractor. M&I Water shall
199 include water used for human use and purposes such as the watering of landscaping or pasture
200 for animals (e.g., horses) which are kept for personal enjoyment or water delivered to land
201 holdings operated in units of less than five (5) acres unless the Contractor establishes to the
202 satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a
203 use described in subdivision (r) of this Article of this Contract;

204 (v) "M&I Full Cost Water Rate" shall mean the annual rate, which, as
205 determined by the Contracting Officer, shall amortize the expenditures for construction allocable
206 to Project M&I facilities in service, including, O&M deficits funded, less payments, over such
207 periods as may be required under Federal Reclamation law with interest accruing from the dates
208 such costs were first incurred plus the applicable rate for the O&M of such Project facilities.

209 Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest
210 Rate methodology contained in Section 202(3) (B) and (C) of the RRA;

211 (w) "Operation and Maintenance" or "O&M" shall mean normal and
212 reasonable care, control, operation, repair, replacement (other than Capital replacement), and
213 maintenance of Project facilities;

214 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or
215 its successor, a Non-Federal entity, which has the obligation to operate and maintain all or a
216 portion of the Friant Division Facilities pursuant to an agreement with the United States and
217 which may have funding obligations with respect thereto;

218 (y) Omitted;

219 (z) "Project" shall mean the Central Valley Project owned by the United
220 States and managed by the Department of the Interior, Bureau of Reclamation;

221 (aa) "Project Contractors" shall mean all parties who have a long-term water
222 service contract or repayment contract for Project Water from the Project with the United States
223 pursuant to Federal Reclamation law;

224 (bb) "Project Water" shall mean all water that is developed, diverted, stored, or
225 delivered by the Secretary in accordance with the statutes authorizing the Project and in
226 accordance with the terms and conditions of water rights acquired pursuant to California law;

227 (cc) "Rates" shall mean the payments for O&M costs as determined annually
228 by the Contracting Officer in accordance with the then-existing applicable water ratesetting

229 policies for the Project, as described in subdivision (a) of Article 7 of this Contract and
230 illustrated in Exhibit “B”, attached hereto;

231 (dd) “Recovered Water Account” shall mean the program, as defined in the
232 Settlement, to make water available to all of the Friant Division Project Contractors who provide
233 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the
234 impact of the interim flows and restoration flows on such contractors;

235 (ee) “Repayment Obligation”, as provided in subdivision (a)(2)(A) of Article 7
236 of this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by
237 one-half of the Treasury rate and computed consistent with the provisions of Section
238 10010(a)(3)(A) of the SJRRSA to be paid as either a lump sum payment by January 31, 2011 or
239 in approximately equal annual installments by January 31, 2014;

240 (ff) “Secretary” shall mean the Secretary of the Interior, a duly appointed
241 successor, or an authorized representative acting pursuant to any authority of the Secretary and
242 through any agency of the Department of the Interior;

243 (gg) “Settlement” shall mean the Stipulation of Settlement dated September 13,
244 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued
245 by the Court pursuant to the terms and conditions of the Settlement in Natural Resources
246 Defense Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

247 (hh) “Tiered Pricing Component” shall be the incremental amount to be paid
248 for each acre-foot of Water Delivered as described in subdivision (l)(1) of Article 7 of this
249 Contract;

250 (ii) "Water Delivered" or "Delivered Water" shall mean Project Water
251 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting
252 Officer;

253 (jj) "Water Made Available" shall mean the estimated amount of Project
254 Water that can be delivered to the Contractor for the upcoming Year as declared by the
255 Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

256 (kk) "Water Management Goal" shall mean the goal of the Settlement to
257 reduce or avoid adverse water supply impacts to all the Friant Division Project Contractors that
258 may result from the interim flows and restoration flows provided for in the Settlement;

259 (ll) "Water Scheduled" shall mean Project Water made available to the
260 Contractor for which times and quantities for delivery have been established by the Contractor
261 and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

262 (mm) "Year" shall mean the period from and including March 1 of each
263 Calendar Year through the last day of February of the following Calendar Year.

264 EFFECTIVE DATE OF CONTRACT

265 2. (a) This Contract shall become effective on the date first hereinabove written
266 and shall continue so long as the Contractor is making the annual payments required herein and
267 paying any other amounts owing under this Contract and applicable law, unless it is terminated
268 by the Contracting Officer by reason of a material uncured breach by the Contractor; Provided,
269 That the Contracting Officer shall not seek to terminate this Contract by reason of an asserted
270 material uncured breach by the Contractor unless it has first provided at least sixty (60) days

271 written notice of the asserted breach to the Contractor and the Contractor has failed to cure such
272 breach (or to diligently commence curative actions satisfactory to the Contracting Officer for a
273 breach that cannot be fully cured within sixty (60) days) within the sixty (60)-day notice period;
274 Provided further, That this Contract may be terminated at any time by mutual consent of the
275 parties hereto.

276 (b) Upon complete payment of the Repayment Obligation by the Contractor,
277 and notwithstanding any Additional Capital Obligation that may later be established, the Tiered
278 Pricing Component as that term is utilized in this Contract, the acreage limitations, reporting, and
279 Full Cost pricing provisions of Federal Reclamation law, and subdivisions (k), (l), (o) through
280 (q), (s), and (v) of Article 1, subdivisions (a)(2)(A), (l)(1), (l)(2), and (l)(3) of Article 7, Article
281 14, subdivision (a) of Article 18, and Article 25, all of this Contract, shall no longer be
282 applicable to the Contractor. Upon complete payment of the Repayment Obligation by the
283 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
284 the terms of this Contract shall be as provided in the restated contract attached hereto as Exhibit
285 "E", which has been prepared solely as a matter of administrative convenience. Exhibit "E"
286 makes no substantive revisions other than those required by this subdivision of this Article of
287 this Contract. Accordingly, upon complete payment of the Repayment Obligation by the
288 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
289 the parties shall refer to Exhibit "E" as their entire agreement under this Contract.

290 (c) This Contract supersedes in its entirety and is intended to replace in full
291 the Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or

292 unenforceable for any reason other than a material uncured breach of this Contract by the
293 Contractor, the Existing Contract shall not be superseded and shall be in full force and effect.

294 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

295 3. (a) During each Year, consistent with all applicable State water rights,
296 permits, and licenses, Federal law, the Settlement including the SJRRSA, and subject to the
297 provisions set forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make
298 available for delivery to the Contractor from the Project 40,000 acre-feet of Class 1 Water and
299 311,675 acre-feet of Class 2 Water for irrigation and M&I purposes. The quantity of Water
300 Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for
301 pursuant to the provisions of Articles 4 and 7 of this Contract.

302 (b) Upon complete payment of the Repayment Obligation by the Contractor,
303 and notwithstanding any Additional Capital Obligation that may later be established, the
304 Contractor shall have a permanent right to the Contract Total in accordance with the 1956 Act
305 and the terms of this Contract. This right shall not be disturbed so long as the Contractor fulfills
306 all of its obligations hereunder. The quantity of water made available for delivery in any given
307 Year shall remain subject to the terms and conditions of subdivision (a) of this Article of this
308 Contract.

309 (c) The Contractor shall utilize the Project Water in accordance with all
310 applicable legal requirements.

311 (d) The Contractor shall make reasonable and beneficial use of all Project
312 Water or other water furnished pursuant to this Contract. Groundwater recharge programs,

313 groundwater banking programs, surface water storage programs, and other similar programs
314 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
315 Contractor's Service Area which are consistent with applicable State law and result in use
316 consistent with applicable Federal Reclamation law will be allowed; Provided, That any direct
317 recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted
318 pursuant to Article 27 of this Contract; Provided further, That such Water Conservation Plan
319 demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a
320 long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such
321 uses and in compliance with Federal Reclamation law. Groundwater recharge programs,
322 groundwater banking programs, surface water storage programs, and other similar programs
323 utilizing Project Water or other water furnished pursuant to this Contract conducted outside the
324 Contractor's Service Area may be permitted upon written approval of the Contracting Officer,
325 which approval will be based upon environmental documentation, Project Water rights, and
326 Project operational concerns. The Contracting Officer will address such concerns in regulations,
327 policies, or guidelines.

328 (e) The Contractor, through this Contract, shall comply with requirements
329 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation
330 regarding the execution of the Existing Contract undertaken pursuant to Section 7 of the
331 Endangered Species Act of 1973, as amended, as well as the requirements of any other biological
332 opinions applicable to Project Water delivery under this Contract, that are within the
333 Contractor's legal authority to implement. The Contractor shall comply with the limitations or

334 requirements imposed by environmental documentation applicable to the Contractor and within
335 its legal authority to implement regarding specific activities, including conversion of Irrigation
336 Water to M&I Water. Nothing herein shall be construed to prevent the Contractor from
337 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
338 biological opinion or other environmental documentation referred to in this Article of this
339 Contract.

340 (f) Subject to subdivisions (l) and (n) of this Article of this Contract,
341 following the declaration of Water Made Available under Article 4 of this Contract, the
342 Contracting Officer will make a determination whether Project Water, or other water available to
343 the Project, can be made available to the Contractor in addition to the Contract Total in this
344 Article of this Contract during the Year without adversely impacting the Project or other Project
345 Contractors and consistent with the Secretary's legal obligations. At the request of the
346 Contractor, the Contracting Officer will consult with the Contractor prior to making such a
347 determination. Subject to subdivisions (l) and (n) of this Article of this Contract, if the
348 Contracting Officer determines that Project Water, or other water available to the Project, can be
349 made available to the Contractor, the Contracting Officer will announce the availability of such
350 water and shall so notify the Contractor as soon as practical. The Contracting Officer will
351 thereafter meet with the Contractor and other Project Contractors capable of taking such water to
352 determine the most equitable and efficient allocation of such water. If the Contractor requests
353 the delivery of any quantity of such water, the Contracting Officer shall make such water

354 available to the Contractor in accordance with applicable statutes, regulations, guidelines, and
355 policies.

356 (g) The Contractor may request permission to reschedule for use during the
357 subsequent Year some or all of the Water Made Available to the Contractor during the current
358 Year referred to as "carryover." The Contractor may request permission to use during the
359 current Year a quantity of Project Water which may be made available by the United States to
360 the Contractor during the subsequent Year referred to as "pre-use." The Contracting Officer's
361 written approval may permit such uses in accordance with applicable statutes, regulations,
362 guidelines, and policies.

363 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
364 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract
365 shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this
366 Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to
367 impose shortages under Article 12 or subdivision (b) of Article 13 of this Contract.

368 (i) Project Water furnished to the Contractor pursuant to this Contract may be
369 delivered for purposes other than those described in subdivisions (r) and (u) of Article 1 of this
370 Contract upon written approval by the Contracting Officer in accordance with the terms and
371 conditions of such approval.

372 (j) The Contracting Officer shall make reasonable efforts to protect the water
373 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to
374 provide the water available under this Contract. The Contracting Officer shall not object to

375 participation by the Contractor, in the capacity and to the extent permitted by law, in
376 administrative proceedings related to the water rights and other rights described in the fifth (5th)
377 Explanatory Recital of this Contract; Provided however, That the Contracting Officer retains the
378 right to object to the substance of the Contractor's position in such a proceeding. Provided
379 further, that in such proceedings the Contracting Officer shall recognize the Contractor has a
380 legal right under the terms of this Contract to use Project Water.

381 (k) Project Water furnished to the Contractor during any month designated in
382 a schedule or revised schedule submitted by the Contractor and approved by the Contracting
383 Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent
384 that Class 1 Water is called for in such schedule for such month and shall be deemed to have
385 been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such
386 month. If in any month the Contractor diverts a quantity of water in addition to the total amount
387 of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised
388 schedule for such month, such additional diversions shall be charged first against the
389 Contractor's remaining Class 2 Water supply available in the current Year. To the extent the
390 Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to
391 account for such additional diversions, such additional diversions shall be charged against the
392 Contractor's remaining Class 1 Water supply available in the current Year. To the extent the
393 Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year
394 are not sufficient to account for such additional diversions, such additional diversions shall be
395 charged first against the Contractor's available Class 2 Water supply and then against the

396 Contractor's available Class 1 Water supply, both for the following Year. Payment for all
397 additional diversions of water shall be made in accordance with Article 7 of this Contract.

398 (l) If the Contracting Officer determines there is a Project Water supply
399 available at Friant Dam as the result of an unusually large water supply not otherwise storable for
400 Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such
401 water will be made available to the Contractor and others under Section 215 of the Act of
402 October 12, 1982, pursuant to the priorities specified below if the Contractor enters into a
403 temporary contract with the United States not to exceed one (1) year for the delivery of such
404 water or as otherwise provided for in Federal Reclamation law and associated regulations. Such
405 water may be identified by the Contractor either (i) as additional water to supplement the supply
406 of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon
407 written notification to the Contracting Officer, as water to be credited against the Contractor's
408 Class 2 Water supply available pursuant to this Contract. The Contracting Officer shall make
409 water determined to be available pursuant to this subsection according to the following priorities:
410 first, to contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to
411 contractors in the Cross Valley Division of the Project. The Contracting Officer will consider
412 requests from other parties for Section 215 Water for use within the area identified as the Friant
413 Division service area in the environmental assessment developed in connection with the
414 execution of the Existing Contract.

415 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
416 Contracting Officer in connection with the implementation of this Contract, is intended to

417 override, modify, supersede or otherwise interfere with any term or condition of the water rights
418 and other rights referred in the fifth (5th) Explanatory Recital of this Contract.

419 (n) The rights of the Contractor under this Contract are subject to the terms of
420 the contract for exchange waters, dated July 27, 1939, between the United States and the San
421 Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred
422 to as the Exchange Contractors), Contract No. 11r-1144, as amended. The United States agrees
423 that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River
424 unless and until required by the terms of said contract, and the United States further agrees that it
425 will not voluntarily and knowingly determine itself unable to deliver to the Exchange
426 Contractors entitled thereto from water that is available or that may become available to it from
427 the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities
428 required to satisfy the obligations of the United States under said Exchange Contract and under
429 Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract 11r-1145,
430 dated July 27, 1939).

431 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph
432 16 of the Settlement, the Contracting Officer is required to develop and implement a plan for
433 recirculation, recapture, reuse, exchange or transfer of water released for restoration flows or
434 interim flows, as those terms are defined in the Settlement, to reduce or avoid impacts to water
435 deliveries caused by said restoration flows or interim flows and water developed through such
436 activities may be made available (i) to the Contractor without the need of an additional contract,

437 and/or (ii) to others on behalf of the Contractor under terms mutually acceptable to the
438 Contractor and the Contracting Officer that are consistent with the Water Management Goal.

439 TIME FOR DELIVERY OF WATER

440 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer
441 shall announce the Contracting Officer's initial declaration of the Water Made Available. The
442 declaration will be updated monthly and more frequently if necessary, based on then-current
443 operational and hydrologic conditions and a new declaration with changes, if any, to the Water
444 Made Available will be made. The Contracting Officer shall provide forecasts of Project
445 operations and the basis of the estimate, with relevant supporting information, upon the written
446 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
447 Contracting Officer shall provide the Contractor with the updated Long Term Historic Average.
448 The declaration of Project operations will be expressed in terms of both Water Made Available
449 and the Long Term Historic Average.

450 (b) On or before each March 1 and at such other times as necessary, the
451 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the
452 Contracting Officer, showing the monthly quantities of Project Water to be delivered by the
453 United States to the Contractor pursuant to this Contract for the Year commencing on such
454 March 1. The Contracting Officer shall use all reasonable means to deliver Project Water
455 according to the approved schedule for the Year commencing on such March 1.

456 (c) The Contractor shall not schedule Project Water in excess of the quantity
457 of Project Water the Contractor intends to put to reasonable and beneficial use within the

458 Contractor's Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract
459 or bank pursuant to subdivision (d) of Article 3 of this Contract during any Year.

460 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
461 Contract, the United States shall deliver Project Water to the Contractor in accordance with the
462 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any
463 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
464 time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided,
465 That the total amount of water requested in that schedule or revision does not exceed the
466 quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of
467 Article 3 of this Contract, and the Contracting Officer determines that there will be sufficient
468 capacity available in the appropriate Friant Division Facilities to deliver the water in accordance
469 with that schedule; Provided further, That the Contractor shall not schedule the delivery of any
470 water during any period as to which the Contractor is notified by the Contracting Officer or
471 Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor
472 will not be in operation because of scheduled O&M.

473 (e) The Contractor may, during the period from and including November 1 of
474 each Year through and including the last day of February of that Year, request delivery of any
475 amount of the Class 1 Water estimated by the Contracting Officer to be made available to it
476 during the following Year. The Contractor may, during the period from and including January 1
477 of each Year (or such earlier date as may be determined by the Contracting Officer) through and
478 including the last day of February of that Year, request delivery of any amount of Class 2 Water

479 estimated by the Contracting Officer to be made available to it during the following Year. Such
480 water shall hereinafter be referred to as pre-use water. Such request must be submitted in writing
481 by the Contractor for a specified quantity of pre-use and shall be subject to the approval of the
482 Contracting Officer. Payment for pre-use water so requested shall be at the appropriate Rate(s)
483 for the following Year in accordance with Article 7 of this Contract and shall be made in
484 advance of delivery of any pre-use water. The Contracting Officer shall deliver such pre-use
485 water in accordance with a schedule or any revision thereof submitted by the Contractor and
486 approved by the Contracting Officer, to the extent such water is available and to the extent such
487 deliveries will not interfere with the delivery of Project Water entitlements to other Friant
488 Division contractors or the physical maintenance of the Project facilities. The quantities of
489 pre-use Water Delivered pursuant to this subdivision shall be deducted from the quantities of
490 water that the Contracting Officer would otherwise be obligated to make available to the
491 Contractor during the following Year; Provided, That the quantity of pre-use water to be
492 deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the
493 Contractor in the following Year shall be specified by the Contractor at the time the pre-use
494 water is requested or as revised in its first schedule for the following Year submitted in
495 accordance with subdivision (b) of this Article of this Contract, based on the availability of the
496 following Year water supplies as determined by the Contracting Officer.

497 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

498 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
499 Contract shall be delivered to the Contractor at a point or points of delivery either on Project

500 facilities or another location or locations mutually agreed to in writing by the Contracting Officer
501 and the Contractor.

502 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
503 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of
504 water in the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts
505 established pursuant to subdivision (a) of this Article of this Contract.

506 (c) The Contractor shall not deliver Project Water to land outside the
507 Contractor's Service Area unless approved in advance by the Contracting Officer. Until
508 complete payment of the Repayment Obligation by the Contractor, and notwithstanding any
509 Additional Capital Obligation that may later be established, the Contractor shall deliver Project
510 Water in accordance with applicable acreage limitations, reporting, and Full Cost pricing
511 provisions of Federal Reclamation law and any applicable land classification provisions of the
512 associated regulations.

513 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
514 measured and recorded with equipment furnished, installed, operated, and maintained by the
515 United States, the Operating Non-Federal Entity or other appropriate entity as designated by the
516 Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery
517 established pursuant to subdivision (a) of this Article of this Contract. Upon the request of either
518 party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the
519 responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any
520 necessary steps to adjust any errors appearing therein. For any period of time when accurate

521 measurements have not been made, the Contracting Officer shall consult with the Contractor and
522 the responsible Operating Non-Federal Entity prior to making a final determination of the
523 quantity delivered for that period of time.

524 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity
525 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project
526 Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified
527 in subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United
528 States, its officers, employees, agents, and assigns on account of damage or claim of damage of
529 any nature whatsoever for which there is legal responsibility, including property damage,
530 personal injury, or death arising out of or connected with the control, carriage, handling, use,
531 disposal, or distribution of such Project Water beyond such delivery points, except for any
532 damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its
533 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity,
534 with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct
535 of the Contracting Officer or any of its officers, employees, agents, or assigns, including any
536 responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of
537 its officers, employees, agents, or assigns including any responsible Operating Non-Federal
538 Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
539 by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor
540 is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies)
541 from which the damage claim arose.

542 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

543 6. (a) The Contractor has established a measurement program satisfactory to the
544 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's
545 Service Area is measured at each agricultural turnout; and water delivered for municipal and
546 industrial purposes is measured at each municipal and industrial service connection. The water
547 measuring devices or water measuring methods of comparable effectiveness must be acceptable
548 to the Contracting Officer. The Contractor shall be responsible for installing, operating, and
549 maintaining and repairing all such measuring devices and implementing all such water
550 measuring methods at no cost to the United States. The Contractor shall use the information
551 obtained from such water measuring devices or water measuring methods to ensure its proper
552 management of the water, to bill water users for water delivered by the Contractor; and, if
553 applicable, to record water delivered for municipal and industrial purposes by customer class as
554 defined in the Contractor's water conservation plan provided for in Article 27 of this Contract.
555 Nothing herein contained, however, shall preclude the Contractor from establishing and
556 collecting any charges, assessments, or other revenues authorized by California law.

557 (b) To the extent the information has not otherwise been provided, upon
558 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
559 report describing the measurement devices or water measuring methods being used or to be used
560 to implement subdivision (a) of this Article of this Contract and identifying the agricultural
561 turnouts and the municipal and industrial service connections or alternative measurement
562 programs approved by the Contracting Officer, at which such measurement devices or water

563 measuring methods are being used, and, if applicable, identifying the locations at which such
564 devices and/or methods are not yet being used including a time schedule for implementation at
565 such locations. The Contracting Officer shall advise the Contractor in writing within sixty (60)
566 days as to the adequacy of, and necessary modifications, if any, of the measuring devices or
567 water measuring methods identified in the Contractor's report and if the Contracting Officer does
568 not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the
569 Contractor that the measuring devices or methods are inadequate, the parties shall within sixty
570 (60) days following the Contracting Officer's response, negotiate in good faith the earliest
571 practicable date by which the Contractor shall modify said measuring devices and/or measuring
572 methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this
573 Article of this Contract.

574 (c) All new surface water delivery systems installed within the Contractor's
575 Service Area after the effective date of this Contract shall also comply with the measurement
576 provisions described in subdivision (a) of this Article of this Contract.

577 (d) The Contractor shall inform the Contracting Officer and the State of
578 California in writing by April 30 of each Year of the monthly volume of surface water delivered
579 within the Contractor's Service Area during the previous Year.

580 (e) The Contractor shall inform the Contracting Officer and the Operating
581 Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity
582 of Irrigation and M&I Water taken during the preceding month.

583
584

RATES, METHOD OF PAYMENT FOR WATER,
AND ACCELERATED REPAYMENT OF FACILITIES

585 7. (a) The Contractor's cost obligations for all Delivered Water shall be
586 determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted
587 in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the
588 SJRRSA, and such ratesetting policies shall be amended, modified, or superseded only through a
589 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated
590 rules and regulations, or policies; and (iii) other applicable provisions of this Contract.

591 (1) The Contractor shall pay the United States as provided for in this
592 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance
593 with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to
594 recover its estimated reimbursable costs included in the O&M component of the Rate and
595 amounts established to recover other charges and deficits, other than the construction costs. The
596 Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the
597 provisions of the SJRRSA.

598 (2) In accordance with the SJRRSA, the Contractor's allocable share
599 of Project construction costs will be repaid pursuant to the provisions of this Contract.

600 (A) The amount due and payable to the United States, pursuant
601 to the SJRRSA, shall be the Repayment Obligation. The Repayment Obligation has been
602 computed by the Contracting Officer in a manner consistent with the SJRRSA and is set forth,
603 both as a lump sum payment and as four (4) approximately equal annual installments, which
604 amounts together with the manner in which such amounts were calculated are set forth in

605 Exhibits "C-1" and "C-2". The Repayment Obligation is due in lump sum by January 31, 2011
606 or in approximate equal annual installments no later than January 31, 2014, as provided by the
607 SJRRSA. The Contractor must provide appropriate notice to the Contracting Officer in writing
608 not later than thirty (30) days prior to January 31, 2011 if electing to repay the amount due using
609 the lump sum alternative. If such notice is not provided by such date, the Contractor shall be
610 deemed to have elected the installment payment alternative, in which case, the first such payment
611 shall be made no later than May 1, 2011, the second payment shall be made no later than the first
612 anniversary of the first payment date, the third payment shall be made no later than the second
613 anniversary of the first payment date, and the final payment shall be made no later than January
614 31, 2014. If the installment payment option is elected by the Contractor, the Contractor may
615 pre-pay the remaining portion of the Repayment Obligation by giving the Contracting Officer
616 sixty (60) days written notice, in which case, the Contracting Officer shall re-compute the
617 remaining amount due to reflect the pre-payment using the same methodology as was used to
618 compute the initial annual installment payment amount, which is illustrated in Exhibit "C-2".
619 Notwithstanding any Additional Capital Obligation that may later be established, receipt of the
620 Contractor's payment of the Repayment Obligation by the United States shall fully and
621 permanently satisfy the Existing Capital Obligation.

622 (B) Project construction costs or other capitalized costs
623 attributable to capital additions to the Project incurred after the effective date of this Contract or
624 that are not reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly
625 assignable to the Contractor, shall be repaid as prescribed by the SJRRSA without interest except

626 as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue
627 on the M&I portion of unpaid Project construction costs or other capitalized cost assigned to the
628 Contractor until such costs are paid. Increases or decreases in Project construction costs or other
629 capitalized costs assigned to the Contractor caused solely by annual adjustment of Project
630 construction costs or other capitalized costs assigned to each Central Valley Project contractor by
631 the Secretary shall not be considered in determining the amounts to be paid pursuant to this
632 subdivision (a)(2)(B), but will be considered under subdivision (b) of this Article. A separate
633 repayment agreement shall be established by the Contractor and the Contracting Officer to
634 accomplish repayment of all additional Project construction costs or other capitalized costs
635 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the
636 following:

637 (1) If the collective annual Project construction costs or
638 other capitalized costs that are incurred after the effective date of this Contract and properly
639 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly
640 assignable to the Contractor shall be repaid in not more than five (5) years after notification of
641 the allocation. This amount is the result of a collective annual allocation of Project construction
642 costs to the contractors exercising contract conversions; Provided, That the reference to the
643 amount of \$5,000,000 shall not be a precedent in any other context.

644 (2) If the collective annual Project construction costs or
645 other capitalized costs that are incurred after the effective date of this Contract and properly
646 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly

647 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law.

648 This amount is the result of a collective annual allocation of Project construction costs to the
649 contractors exercising contract conversions; Provided, That the reference to the amount of
650 \$5,000,000 shall not be a precedent in any other context.

651 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
652 allocation by the Secretary upon completion of the construction of the Central Valley Project, the
653 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any
654 reallocation of Project construction costs or other capitalized costs assigned to the Contractor
655 that may have occurred between the determination of Contractor's Existing Capital Obligation
656 and the final cost allocation. In the event that the final cost allocation, as determined by the
657 Secretary, indicates that the costs properly assignable to the Contractor, as determined by the
658 Contracting Officer, are greater than the Existing Capital Obligation and other amounts of
659 Project construction costs or other capitalized costs paid by the Contractor, then the Contractor
660 shall be obligated to pay the remaining allocated costs. The term of such additional repayment
661 contract shall be no less than one (1) year and no more than ten (10) years, however, mutually
662 agreeable provisions regarding the rate of repayment of such amount may be developed by the
663 parties. In the event that the final cost allocation, as determined by the Secretary, indicates that
664 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are less
665 than the Existing Capital Obligation and other amounts of Project construction costs or other
666 capitalized costs paid by the Contractor, then the Contracting Officer shall credit such
667 overpayment as an offset against any outstanding or future obligation of the Contractor,

668 consistent with the SJRRSA. This Contract shall be implemented in a manner consistent with
669 Section 10010(f) of the SJRRSA.

670 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall
671 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
672 period October 1, of the current Calendar Year, through September 30, of the following Calendar
673 Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2)
674 months to review and comment on such estimates. On or before September 15 of each Calendar
675 Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect
676 during the period October 1 of the current Calendar Year, through September 30 of the following
677 Calendar Year, and such notification shall revise Exhibit "B". Charges shall be subject to
678 reduction consistent with the SJRRSA based upon the average annual delivery amount agreed to
679 by the Contracting Officer and the Contractor.

680 (1) Upon complete payment of the Repayment Obligation by the
681 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
682 for the years 2020 through 2039 inclusive, Charges shall reflect the reduction on a per acre-foot
683 basis consistent with Section 10010(d)(1) of the SJRRSA. Exhibit "D" sets forth the reduction in
684 Charges to offset the Financing Costs as prescribed in Section 10010(d)(1) of the SJRRSA;
685 Provided, That if the Secretary determines such Charges are otherwise needed, an equivalent
686 reduction will be made to O&M costs consistent with such provisions of the SJRRSA.
687 Consistent with Section 10010(d)(1) of the SJRRSA and as shown in Exhibit "D", the Friant
688 Surcharge reduction has been calculated based upon the anticipated average annual water

689 deliveries, for the purpose of this reduction only, mutually agreed upon by the Secretary and the
690 Contractor for the period from January 1, 2020 through December 31, 2039. The Friant
691 Surcharge reduction shall remain fixed and shall only be applied to Water Delivered pursuant to
692 this Contract to which the Friant Surcharge applies (including but not limited to water
693 transferred, banked, or exchanged), commencing on January 1, 2020 until such volume of Water
694 Delivered equals 1,552,690 acre-feet or December 31, 2039, whichever occurs first.

695 (2) Further, to fully offset the Financing Costs, Contractor shall be
696 entitled to a reduction in other outstanding or future obligations of the Contractor in accordance
697 with Section 10010(d)(2) of the SJRSA. The amount of such further reduction in outstanding
698 or future obligations of the Contractor after October 1, 2019 has been computed by the
699 Contracting Officer, and as computed, such amount is set forth in Exhibit "D".

700 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall
701 make available to the Contractor an estimate of the Rates and Tiered Pricing Component for
702 Project Water for the following Year and the computations and cost allocations upon which those
703 Rates are based. The Contractor shall be allowed not less than two (2) months to review and
704 comment on such computations and cost allocations. By December 31 of each Calendar Year,
705 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing
706 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B".
707 The O&M component of the Rate may be reduced as provided in the SJRSA.

708 (e) At the time the Contractor submits the initial schedule for the delivery of
709 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the

710 Contractor shall make an advance payment to the United States equal to the total amount payable
711 pursuant to the applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the
712 Project Water scheduled to be delivered pursuant to this Contract during the first two (2)
713 calendar months of the Year. Before the end of the first month and before the end of each
714 calendar month thereafter, the Contractor shall make an advance payment to the United States, at
715 the Rate(s) set under subdivision (a) of this Article of this Contract, for the Water Scheduled to
716 be delivered pursuant to this Contract during the second month immediately following.

717 Adjustments between advance payments for Water Scheduled and payments at Rates due for
718 Water Delivered shall be made before the end of the following month; Provided, That any
719 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which
720 increases the amount of Water Delivered pursuant to this Contract during any month shall be
721 accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project
722 Water is not delivered to the Contractor in advance of such payment. In any month in which the
723 quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of
724 Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered
725 to the Contractor unless and until an advance payment at the Rates then in effect for such
726 additional Project Water is made. Final adjustment between the advance payments for the Water
727 Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this
728 Contract shall be made as soon as practicable but no later than April 30th of the following Year,
729 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article
730 3 of this Contract if such water is not delivered by the last day of February.

731 (f) The Contractor shall also make a payment in addition to the Rate(s) in
732 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
733 Charges and the appropriate Tiered Pricing Component then in effect, before the end of the
734 month following the month of delivery; Provided, That the Contractor may be granted an
735 exception from the Tiered Pricing Component pursuant to subdivision (1)(2) of this Article of this
736 Contract. The payments shall be consistent with the quantities of Irrigation Water and M&I
737 Water Delivered as shown in the water delivery report for the subject month prepared by the
738 Contracting Officer. Such water delivery report shall be the basis for payment of Charges and
739 Tiered Pricing Components by the Contractor, and shall be provided to the Contractor by the
740 Contracting Officer (as applicable) within five (5) days after the end of the month of delivery.
741 The water delivery report shall be deemed a bill basis for payment of Charges and the applicable
742 Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment
743 of Charges shall be made through the adjustment of payments due to the United States for
744 Charges for the next month. Any amount to be paid for past due payment of Charges shall be
745 computed pursuant to Article 21 of this Contract.

746 (g) The Contractor shall pay for any Water Delivered under subdivision (d),
747 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to
748 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting
749 policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this
750 Contract shall be no more than the otherwise applicable Rate for Irrigation Water or M&I Water
751 under subdivision (a) of this Article of this Contract.

752 (h) Payments to be made by the Contractor to the United States under this
753 Contract may be paid from any revenues available to the Contractor.

754 (i) All revenues received by the United States from the Contractor relating to
755 the delivery of Project Water or the delivery of non-project water through Project facilities shall
756 be allocated and applied in accordance with Federal Reclamation law and the associated rules or
757 regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and
758 consistent with the SJRRSA.

759 (j) The Contracting Officer shall keep its accounts, pertaining to the
760 administration of the financial terms and conditions of its long-term contracts, in accordance
761 with applicable Federal standards so as to reflect the application of Project costs and revenues.
762 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
763 Contractor a detailed accounting of all Project and Contractor expense allocations, the
764 disposition of all Project and Contractor revenues, and a summary of all water delivery
765 information. The Contracting Officer and the Contractor shall enter into good faith negotiations
766 to resolve any discrepancies or disputes relating to accountings, reports, or information.

767 (k) The parties acknowledge and agree that the efficient administration of this
768 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
769 policies, and procedures used for establishing Rates, Charges, Tiered Pricing Components,
770 and/or for making and allocating payments, other than those set forth in this Article of this
771 Contract, may be in the mutual best interest of the parties, it is expressly agreed that the parties

772 may enter into agreements to modify the mechanisms, policies, and procedures for any of those
773 purposes while this Contract is in effect without amending this Contract.

774 (l) (1) Beginning at such time as the total of the deliveries of Class 1
775 Water and Class 2 Water in a Year exceed eighty (80) percent of the Contract Total, then before
776 the end of the month following the month of delivery the Contractor shall make an additional
777 payment to the United States equal to the applicable Tiered Pricing Component. The Tiered
778 Pricing Component for the total of the deliveries of Class 1 Water and Class 2 Water in excess of
779 eighty (80) percent of the Contract Total, but less than or equal to ninety (90) percent of the
780 Contract Total, shall equal the one-half of the difference between the Rate established under
781 subdivision (a) of this Article of this Contract and the Irrigation Full Cost Water Rate, or M&I
782 Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the total of
783 the deliveries of Class 1 Water and Class 2 Water which exceeds ninety (90) percent of the
784 Contract Total shall equal the difference between (i) the Rate established under subdivision (a) of
785 this Article of this Contract and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water
786 Rate, whichever is applicable.

787 (2) Subject to the Contracting Officer's written approval, the
788 Contractor may request and receive an exemption from such Tiered Pricing Components for
789 Project Water Delivered to produce a crop which the Contracting Officer determines will provide
790 significant and quantifiable habitat values for waterfowl in fields where the water is used and the
791 crops are produced; Provided, That the exemption from the Tiered Pricing Components for
792 Irrigation Water shall apply only if such habitat values can be assured consistent with the

793 purposes of CVPIA through binding agreements executed with or approved by the Contracting
794 Officer prior to use of such water.

795 (3) For purposes of determining the applicability of the Tiered Pricing
796 Components pursuant to this Article of this Contract, Water Delivered shall include Project
797 Water that the Contractor transfers to others but shall not include Project Water transferred and
798 delivered to the Contractor.

799 (m) Rates under the respective ratesetting policies will be established to
800 recover only reimbursable O&M (including any deficits) costs of the Project, as those terms are
801 used in the then-existing Project ratesetting policies, and consistent with the SJRRSA, and
802 interest, where appropriate, except in instances where a minimum Rate is applicable in
803 accordance with the relevant Project ratesetting policy. Changes of significance in practices
804 which implement the Contracting Officer's ratesetting policies will not be implemented until the
805 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
806 impact of the proposed change.

807 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
808 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
809 adjusted upward or downward to reflect the changed costs of delivery (if any) incurred by the
810 Contracting Officer in the delivery of the transferred Project Water to the transferee's point of
811 delivery in accordance with the then-existing Central Valley Project Ratesetting Policy.

812 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

813 8. The Contractor and the Contracting Officer concur that, as of the effective date of
814 this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and
815 therefore shall have no further liability.

816 RECOVERED WATER ACCOUNT

817 9. (a) Notwithstanding any other provisions of this Contract, water delivered to
818 the Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the
819 Settlement and affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of
820 \$10.00 per acre foot. Recovered Water Account water provided to the Contractor shall be
821 administered at a priority for delivery lower than Class 2 Water and higher than Section 215
822 Water.

823 (b) The manner in which the Recovered Water Account will be administered
824 will be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA,
825 and Paragraph 16 of the Settlement.

826 SALES, TRANSFERS, AND EXCHANGES OF WATER

827 10. (a) The right to receive Project Water provided for in this Contract may be
828 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of
829 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,
830 and applicable guidelines or regulations then in effect. Furthermore, The Contractor may
831 continue to exchange Project Water for water from the Cross Valley Division contractors in the
832 manner historically carried out with the approval of the Contracting Officer under Contract No.

833 14-06-200-229A. No sale, transfer, or exchange of Project Water under this Contract may take
834 place without the prior written approval of the Contracting Officer, except as provided for in
835 subdivisions (b) and (c) of this Article of this Contract. No such Project Water sales, transfers,
836 or exchanges shall be approved, where approval is required, absent compliance with appropriate
837 environmental documentation including but not limited to the National Environmental Policy
838 Act and the Endangered Species Act. Such environmental documentation must include, as
839 appropriate, an analysis of groundwater impacts and economic and social effects, including
840 environmental justice, of the proposed Project Water sales, transfers and exchanges on both the
841 transferor/exchanger and transferee/exchange recipient.

842 (b) In order to facilitate efficient water management by means of Project
843 Water sales, transfers, or exchanges of the type historically carried out among Project
844 Contractors located within the same geographical area and to allow the Contractor to participate
845 in an accelerated water transfer program, the Contracting Officer has prepared, as appropriate,
846 necessary environmental documentation including, but not limited to, the National
847 Environmental Policy Act and the Endangered Species Act analyzing annual Project Water sales,
848 transfers, or exchanges among Contractors within the same geographical area and the
849 Contracting Officer has determined that such Project Water sales, transfers, and exchanges
850 comply with applicable law.

851 (c) Project Water sales, transfers, and exchanges analyzed in the
852 environmental documentation referenced in subdivision (b) of this Article of this Contract, shall
853 be conducted with advance notice to the Contracting Officer and the Contracting Officer's

854 written acknowledgement of the transaction, but shall not require prior written approval by the
855 Contracting Officer.

856 (d) For Project Water sales, transfers, or exchanges to qualify under
857 subdivision (b) of this Article of this Contract such Project Water sale, transfer, or exchange
858 must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for
859 M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface
860 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to
861 established cropland, wildlife refuges, groundwater basins or municipal and industrial use;
862 (ii) occur within a single Year; (iii) occur between a willing seller and a willing buyer or willing
863 exchangers; (iv) convey water through existing facilities with no new construction or
864 modifications to facilities and be between existing Project Contractors and/or the Contractor and
865 the United States, Department of the Interior; and (v) comply with all applicable Federal, State,
866 and local or tribal laws and requirements imposed for protection of the environment and Indian
867 Trust Assets, as defined under Federal law.

868 (e) The environmental documentation and the Contracting Officer's
869 compliance determination for transactions described in subdivision (b) of this Article of this
870 Contract shall be reviewed every five (5) years and updated, as necessary, prior to the expiration
871 of the then-existing five (5) year period. All subsequent environmental documentation shall
872 include an alternative to evaluate not less than the quantity of Project Water historically sold,
873 transferred, or exchanged within the same geographical area.

874 (f) Consistent with Section 10010(e)(l) of the SJRRSA, any agreement
875 providing for sale, transfer, or exchange of Project Water that is not used for interim flows or
876 restoration flows pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy
877 the requirements of CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or
878 exchanges comply with sub-division (f)(1) and (f)(2) below.

879 (1) Project Water sales, transfers, and exchanges conducted under the
880 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting
881 Officer's concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the
882 Contractor shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1)
883 year, provide ninety (90) days written advance notification to the Contracting Officer and
884 similarly thirty (30) days written advance notification of any Project Water sale, transfer, or
885 exchange with a term of less than one (1) year. The Contracting Officer shall promptly make
886 such notice publicly available.

887 (2) The Contractor's thirty (30) days or ninety (90) days advance
888 written notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain
889 how the proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or
890 mitigate impacts to Project Water deliveries caused by interim or restoration flows or is
891 otherwise intended to facilitate the Water Management Goal as described in the SJRRSA. The
892 Contracting Officer shall promptly make such notice publicly available.

893 (3) In addition, the Contracting Officer shall, at least annually, make
894 available publicly a compilation of the number of Project Water sales, transfers, and exchange

895 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
896 Contract.

897 (4) Project Water sold, transferred, or exchanged under an agreement
898 that meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be
899 counted as a replacement or an offset for purposes of determining reductions to Project Water
900 deliveries to any Friant Division Project Contractor except as provided in Paragraph 16(b) of the
901 Settlement.

902 (g) Upon complete payment of the Repayment Obligation by the Contractor,
903 and notwithstanding any Additional Capital Obligation that may later be established, in the case
904 of a sale or transfer of Irrigation Water to another contractor which is otherwise subject to the
905 acreage limitations, reporting, and Full Cost pricing provisions of the RRA, such sold or
906 transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of
907 a sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to
908 RRA provisions, such RRA provisions shall apply to delivery of such water.

909 APPLICATION OF PAYMENTS AND ADJUSTMENTS

910 11. (a) The amount of any overpayment by the Contractor of the Contractor's
911 O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current
912 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
913 more than One Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu
914 of a refund, any amount of such overpayment, at the option of the Contractor, may be credited
915 against amounts to become due to the United States by the Contractor. With respect to

916 overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or
917 anyone having or claiming to have the right to the use of any of the Project Water supply
918 provided for herein. All credits and refunds of overpayments shall be made within thirty (30)
919 days of the Contracting Officer obtaining direction as to how to credit or refund such
920 overpayment in response to the notice to the Contractor that it has finalized the accounts for the
921 Year in which the overpayment was made.

922 (b) All advances for miscellaneous costs incurred for work requested by the
923 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs
924 when the work has been completed. If the advances exceed the actual costs incurred, the
925 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
926 advances, the Contractor will be billed for the additional costs pursuant to Article 26 of this
927 Contract.

928 TEMPORARY REDUCTIONS—RETURN FLOWS

929 12. (a) The Contracting Officer shall make all reasonable efforts to optimize
930 delivery of the Contract Total subject to: (i) the authorized purposes and priorities of the Project;
931 (ii) the requirements of Federal law and the Settlement; and (iii) the obligations of the United
932 States under existing contracts, or renewals thereof, providing for water deliveries from the
933 Project.

934 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
935 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for
936 the purposes of investigation, inspection, maintenance, repair, or replacement of any of the

937 Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor,
938 but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the
939 Contractor due notice in advance of such temporary discontinuance or reduction, except in case
940 of emergency, in which case no notice need be given; Provided, That the United States shall use
941 its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of
942 service after such reduction or discontinuance, and if requested by the Contractor, the United
943 States will, if possible, deliver the quantity of Project Water which would have been delivered
944 hereunder in the absence of such discontinuance or reduction.

945 (c) The United States reserves the right to all seepage and return flow water
946 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
947 beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for
948 the United States any right as seepage or return flow to water being used pursuant to this
949 Contract for surface irrigation or underground storage either being put to reasonable and
950 beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or
951 those claiming by, through, or under the Contractor. For purposes of this subdivision,
952 groundwater recharge, groundwater banking and all similar groundwater activities will be
953 deemed to be underground storage.

954 CONSTRAINTS ON THE AVAILABILITY OF WATER

955 13. (a) In its operation of the Project, the Contracting Officer will use all
956 reasonable means to guard against a Condition of Shortage in the quantity of water to be made
957 available to the Contractor pursuant to this Contract. In the event the Contracting Officer

958 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
959 Contractor of said determination as soon as practicable.

960 (b) If there is a Condition of Shortage because of errors in physical operations
961 of the Project, drought, other physical causes beyond the control of the Contracting Officer or
962 actions taken by the Contracting Officer to meet legal obligations, including but not limited to
963 obligations pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of
964 this Contract, no liability shall accrue against the United States or any of its officers, agents, or
965 employees for any damage, direct or indirect, arising therefrom.

966 (c) The United States shall not execute contracts which together with this
967 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000
968 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That,
969 subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water
970 contracts shall not prohibit the United States from entering into temporary contracts of one year
971 or less in duration for delivery of Project Water to other entities if such water is not necessary to
972 meet the schedules as may be submitted by all Friant Division Project Contractors entitled to
973 receive Class 1 Water and/or Class 2 Water under their contracts. Nothing in this subdivision
974 shall limit the Contracting Officer's ability to take actions that result in the availability of new
975 water supplies to be used for Project purposes and allocating such new supplies; Provided, That
976 the Contracting Officer shall not take such actions until after consultation with the Friant
977 Division Project Contractors.

978 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to
979 this or any other contract heretofore or hereafter entered into any Year unless and until the
980 Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in
981 subdivision (c) of this Article of this Contract will be available for delivery in said Year. If the
982 Contracting Officer determines there is or will be a shortage in any Year in the quantity of
983 Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1
984 Water among all Contractors entitled to receive such water that will be made available at Friant
985 Dam in accordance with the following:

986 (1) A determination shall be made of the total quantity of Class 1
987 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the
988 amount so determined being herein referred to as the available supply.

989 (2) The total available Class 1 supply shall be divided by the Class 1
990 Water contractual commitments, the quotient thus obtained being herein referred to as the
991 Class 1 apportionment coefficient.

992 (3) The total quantity of Class 1 Water under Article 3 of this Contract
993 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of
994 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the
995 respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water
996 specified in subdivision (a) of Article 3 of this Contract.

997 (e) If the Contracting Officer determines there is less than the quantity of
998 Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3

999 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the
1000 Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of
1001 subdivision (d) of this Article of this Contract substituting the term "Class 2" for the term "Class
1002 1."

1003 (f) In the event that in any Year there is made available to the Contractor, by
1004 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article
1005 of this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of
1006 Article 12 of this Contract, less than the quantity of water which the Contractor otherwise would
1007 be entitled to receive hereunder, there shall be made an adjustment on account of the amounts
1008 already paid to the Contracting Officer by the Contractor for Class 1 Water and Class 2 Water
1009 for said Year in accordance with Article 11 of this Contract.

1010 UNAVOIDABLE GROUNDWATER PERCOLATION

1011 14. To the extent applicable, the Contractor shall not be deemed to have delivered
1012 Irrigation Water to Excess Lands and Ineligible Lands within the meaning of this Contract if
1013 such lands are irrigated with groundwater that reaches the underground strata as an unavoidable
1014 result of the delivery of Irrigation Water by the Contractor to Eligible Lands.

1015 ACREAGE LIMITATION

1016 15. (a) Notwithstanding the application of the acreage limitation provisions to
1017 activities referred to in subdivision (b) of this Article, subdivision (a) of Article 16, and Article
1018 18 of this Contract, upon complete payment of the Repayment Obligation by the Contractor, and
1019 notwithstanding any Additional Capital Obligation that may later be established, the provisions

1020 of section 213(a) and (b) of the RRA shall apply to lands in the Contractor's Service Area, with
1021 the effect that acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall
1022 no longer apply to lands in the Contractor's Service Area with respect to Water Delivered
1023 pursuant to this Contract. Upon receiving the complete payment of the Repayment Obligation
1024 from the Contractor, Reclamation will conduct a final water district review for the purpose of
1025 determining compliance with the acreage limitations, reporting, and Full Cost pricing provisions
1026 of the RRA from the date of the last water district review until the date when payment to
1027 Reclamation of the Repayment Obligation is completed.

1028 (b) Project Water to which the Contractor is entitled through a separate
1029 contract, other than this Contract, that is subject to Federal Reclamation law, may be delivered to
1030 lands within the Contractor's Service Area. Upon complete payment of the Repayment
1031 Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may
1032 later be established, Project Water Delivered under this Contract may be mixed with Project
1033 Water Delivered pursuant to a contract with the United States, other than this Contract, to which
1034 acreage limitations, reporting, and the Full Cost pricing provisions of Federal Reclamation law
1035 apply without causing the application of the acreage limitations, reporting, and Full Cost pricing
1036 provisions of Federal Reclamation law to the Water Delivered pursuant to this Contract;
1037 Provided, The terms and conditions in such other contract shall continue to apply, and if such
1038 terms and conditions so require, the lands to receive Project Water under such other contract
1039 shall be properly designated by the Contractor and such Project Water is to be delivered in

1040 accordance with the RRA including any applicable acreage limitations, reporting, and Full Cost
1041 pricing provisions.

1042 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

1043 16. (a) The parties agree that the delivery of irrigation water or use of Federal
1044 facilities pursuant to this Contract is subject to Federal Reclamation law, including but not
1045 limited to the Reclamation Reform Act of 1982 (43 U.S.C. 390 aa *et seq.*), as amended and
1046 supplemented, and the rules and regulations promulgated by the Secretary of the Interior under
1047 Federal Reclamation law.

1048 (b) The terms of this Contract are subject to the Settlement and the SJRRSA.

1049 Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of
1050 the Settlement and the SJRRSA.

1051 PROTECTION OF WATER AND AIR QUALITY

1052 17. (a) Project facilities used to make available and deliver water to the
1053 Contractor shall be operated and maintained in the most practical manner to maintain the quality
1054 of the water at the highest level possible as determined by the Contracting Officer: *Provided,*
1055 *That* the United States does not warrant the quality of the water delivered to the Contractor and is
1056 under no obligation to furnish or construct water treatment facilities to maintain or improve the
1057 quality of water delivered to the Contractor.

1058 (b) The Contractor shall comply with all applicable water and air pollution
1059 laws and regulations of the United States and the State of California; and shall obtain all required
1060 permits or licenses from the appropriate Federal, State, or local authorities necessary for the
1061 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,
1062 State, and local water quality standards applicable to surface and subsurface drainage and/or
1063 discharges generated through the use of Federal or Contractor facilities or project water provided
1064 by the Contractor within the Contractor's Project Water Service Area.

1065 (c) This article shall not affect or alter any legal obligations of the Secretary
1066 to provide drainage or other discharge services.

WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

1067
1068
1069 18. (a) Until complete payment of the Repayment Obligation by the Contractor,
1070 and notwithstanding any Additional Capital Obligation that may later be established, water or
1071 water rights now owned or hereafter acquired by the Contractor other than from the United
1072 States and Irrigation Water furnished pursuant to the terms of this Contract may be
1073 simultaneously transported through the same distribution facilities of the Contractor subject to
1074 the following: (i) if the facilities utilized for commingling Irrigation Water and non-project
1075 water were constructed without funds made available pursuant to Federal Reclamation law, the
1076 acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law will
1077 be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility
1078 of land to receive Irrigation Water must be established through the certification requirements as
1079 specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); and (iii) the water
1080 requirements of Eligible Lands within the Contractor's Service Area can be established and the
1081 quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to
1082 irrigate such Eligible Lands. The Contractor and the Contracting Officer acknowledge that the
1083 Contractor's distribution system that was constructed with funds made available pursuant to
1084 Federal Reclamation law was, prior to effective date of this Contract, repaid in full and title to
1085 the facilities transferred to the Contractor. As such, when such facilities are utilized for
1086 commingling Irrigation Water and non-project water, the acreage limitations, reporting, and Full
1087 Cost pricing provisions of Federal Reclamation law will be applicable only to the Landholders of
1088 lands which receive Irrigation Water.

1089 (b) Upon complete payment of the Repayment Obligation by the Contractor,
1090 and notwithstanding any Additional Capital Obligation that may later be established, water or
1091 water rights now owned or hereafter acquired by the Contractor other than from the United
1092 States pursuant to this Contract and Irrigation Water furnished pursuant to the terms of this
1093 Contract may be simultaneously transported through the same distribution facilities of the
1094 Contractor without the payment of fees to the United States and without application of Federal
1095 Reclamation law to Water Delivered pursuant to this Contract or to lands which receive Water
1096 Delivered to Contractor pursuant to this Contract.

1097 (c) Water or water rights now owned or hereafter acquired by the Contractor,
1098 other than from the United States or adverse to the Project or its contractors (i.e., non-project
1099 water), may be stored, conveyed and/or diverted through Project facilities, other than Friant
1100 Division Facilities, subject to the completion of appropriate environmental documentation, with
1101 the approval of the Contracting Officer and the execution of any contract determined by the
1102 Contracting Officer to be necessary, consistent with the following provisions:

1103 (1) The Contractor may introduce non-project water into Project
1104 facilities and deliver said water to lands within the Contractor's Service Area, including
1105 Ineligible Lands, subject to payment to the United States and/or to any applicable Operating
1106 Non-Federal Entity of an appropriate rate as determined by the Contracting Officer. In addition,
1107 if electrical power is required to pump non-project water, the Contractor shall be responsible for
1108 obtaining the necessary power and paying the necessary charges therefor.

1109 (2) Delivery of such non-project water in and through Project facilities
1110 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
1111 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
1112 available to other Project Contractors; (iii) interfere with the delivery of contractual water
1113 entitlements to any other Project Contractors; (iv) interfere with the physical maintenance of the
1114 Project facilities; or (v) result in the United States incurring any liability or unreimbursed costs
1115 or expenses thereby.

1116 (3) Neither the United States nor the Operating Non-Federal Entity
1117 shall be responsible for control, care or distribution of the non-project water before it is
1118 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases
1119 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and
1120 their respective officers, agents, and employees, from any claim for damage to persons or
1121 property, direct or indirect, resulting from Contractor's diversion or extraction of non-project
1122 water from any source.

1123 (4) Diversion of such non-project water into Project facilities shall be
1124 consistent with all applicable laws, and if involving groundwater, consistent with any
1125 groundwater management plan for the area from which it was extracted.

1126 (5) After Project purposes are met, as determined by the Contracting
1127 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
1128 of the facilities declared to be available by the Contracting Officer for conveyance and

1129 transportation of non-project water prior to any such remaining capacity being made available to
1130 non-project contractors.

1131 (d) Non-project water may be stored, conveyed and/or diverted through Friant
1132 Division Facilities, subject to the completion of appropriate environmental documentation and
1133 approval of the Contracting Officer without execution of a separate contract, consistent with
1134 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be
1135 appropriate by the Contracting Officer.

1136 OPINIONS AND DETERMINATIONS

1137 19. (a) Where the terms of this Contract provide for actions to be based upon the
1138 opinion or determination of either party to this Contract, said terms shall not be construed as
1139 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
1140 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
1141 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
1142 or unreasonable opinion or determination. Each opinion or determination by either party shall be
1143 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect
1144 or alter the standard of judicial review applicable under Federal law to any opinion or
1145 determination implementing a specific provision of Federal law embodied in statute or
1146 regulation.

1147 (b) The Contracting Officer shall have the right to make determinations
1148 necessary to administer this Contract that are consistent with the provisions of this Contract, the
1149 laws of the United States and the State of California, and the rules and regulations promulgated

1150 by the Secretary. Such determinations shall be made in consultation with the Contractor to the
1151 extent reasonably practicable.

1152 COORDINATION AND COOPERATION

1153 20. (a) In order to further their mutual goals and objectives, the Contracting
1154 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
1155 with other affected Project Contractors, in order to improve the operation and management of the
1156 Project. The communication, coordination, and cooperation regarding operations and
1157 management shall include, but not limited to, any action which will or may materially affect the
1158 quantity or quality of Project Water supply, the allocation of Project Water supply, and Project
1159 financial matters including, but not limited to, budget issues. The communication, coordination,
1160 and cooperation provided for hereunder shall extend to all provisions of this Contract. Each
1161 party shall retain exclusive decision making authority for all actions, opinions, and
1162 determinations to be made by the respective party.

1163 (b) It is the intent of the Secretary to improve water supply reliability. To
1164 carry out this intent:

1165 (1) The Contracting Officer will, at the request of the Contractor,
1166 assist in the development of integrated resource management plans for the Contractor. Further,
1167 the Contracting Officer will, as appropriate, seek authorizations for implementation of
1168 partnerships to improve water supply, water quality, and reliability.

1169 (2) The Secretary will, as appropriate, pursue program and project
1170 implementation and authorization in coordination with Project Contractors to improve the water
1171 supply, water quality, and reliability of the Project for all Project purposes.

1172 (3) The Secretary will coordinate with Project Contractors and the
1173 State of California to seek improved water resource management.

1174 (4) The Secretary will coordinate actions of agencies within the
1175 Department of the Interior that may impact the availability of water for Project purposes.

1176 (5) The Contracting Officer shall periodically, but not less than
1177 annually, hold division level meetings to discuss Project operations, division level water
1178 management activities, and other issues as appropriate.

1179 (c) Without limiting the contractual obligations of the Contracting Officer
1180 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting
1181 Officer's ability to communicate, coordinate, and cooperate with the Contractor or other
1182 interested stakeholders or to make decisions in a timely fashion as needed to protect health,
1183 safety, physical integrity of structures or facilities, or the Contracting Officer's ability to comply
1184 with applicable laws.

1185 CHARGES FOR DELINQUENT PAYMENTS

1186 21. (a) The Contractor shall be subject to interest, administrative and penalty
1187 charges on delinquent installments or payments. When a payment is not received by the due
1188 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
1189 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
1190 administrative charge to cover additional costs of billing and processing the delinquent payment.
1191 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
1192 penalty charge of six (6) percent per year for each day the payment is delinquent beyond the due
1193 date. Further, the Contractor shall pay any fees incurred for debt collection services associated
1194 with a delinquent payment.

1195 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
1196 in the Federal Register by the Department of the Treasury for application to overdue payments,
1197 or the interest rate of one-half of one (0.5) percent per month prescribed by Section 6 of the
1198 Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be
1199 determined as of the due date and remain fixed for the duration of the delinquent period.

1200 (c) When a partial payment on a delinquent account is received, the amount
1201 received shall be applied, first to the penalty, second to the administrative charges, third to the
1202 accrued interest, and finally to the overdue payment.

1203 EQUAL EMPLOYMENT OPPORTUNITY

1204 22. During the performance of this Contract, the Contractor agrees as follows:

1205 (a) The Contractor will not discriminate against any employee or applicant for
1206 employment because of race, color, religion, sex, disability, or national origin. The Contractor
1207 will take affirmative action to ensure that applicants are employed, and that employees are
1208 treated during employment, without regard to their race, color, religion, sex, disability, or
1209 national origin. Such action shall include, but not be limited to the following: employment,
1210 upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination;
1211 rates of pay or other forms of compensation; and selection for training, including apprenticeship.
1212 The Contractor agrees to post in conspicuous places, available to employees and applicants for
1213 employment, notices to be provided by the Contracting Officer setting forth the provisions of this
1214 nondiscrimination clause.

1215 (b) The Contractor will, in all solicitations or advertisements for employees
1216 placed by or on behalf of the Contractor, state that all qualified applicants will receive
1217 consideration for employment without regard to race, color, religion, sex, disability, or national
1218 origin.

1219 (c) The Contractor will send to each labor union or representative of workers
1220 with which it has a collective bargaining agreement or other contract or understanding, a notice,
1221 to be provided by the Contracting Officer, advising the labor union or workers' representative of
1222 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,
1223 1965, and shall post copies of the notice in conspicuous places available to employees and
1224 applicants for employment.

1225 (d) The Contractor will comply with all provisions of Executive Order No.
1226 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary
1227 of Labor.

1228 (e) The Contractor will furnish all information and reports required by
1229 Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the
1230 Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and

1231 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to
1232 ascertain compliance with such rules, regulations, and orders.

1233 (f) In the event of the Contractor's noncompliance with the nondiscrimination
1234 clauses of this contract or with any of such rules, regulations, or orders, this contract may be
1235 canceled, terminated or suspended in whole or in part and the Contractor may be declared
1236 ineligible for further Government contracts in accordance with procedures authorized in
1237 Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and
1238 remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule,
1239 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1240 (g) The Contractor will include the provisions of paragraphs (1) through (7) in
1241 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1242 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24,
1243 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor
1244 will take such action with respect to any subcontract or purchase order as may be directed by the
1245 Secretary of Labor as a means of enforcing such provisions, including sanctions for
1246 noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is
1247 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
1248 Contractor may request the United States to enter into such litigation to protect the interests of
1249 the United States.

1250 GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

1251 23. (a) The obligation of the Contractor to pay the United States as provided in
1252 this Contract is a general obligation of the Contractor notwithstanding the manner in which the
1253 obligation may be distributed among the Contractor's water users and notwithstanding the
1254 default of individual water users in their obligations to the Contractor.

1255 (b) The payment of charges becoming due hereunder is a condition precedent
1256 to receiving benefits under this Contract. The United States shall not make water available to the
1257 Contractor through Project facilities during any period in which the Contractor may be in arrears
1258 in the advance payment of water rates due the United States. The Contractor shall not furnish
1259 water made available pursuant to this Contract for lands or parties which are in arrears in the
1260 advance payment of water rates levied or established by the Contractor.

1261 (c) With respect to subdivision (b) of this Article of this Contract, the
1262 Contractor shall have no obligation to require advance payment for water rates which it levies.

1263

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1264 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1265 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
1266 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
1267 laws, as well as with their respective implementing regulations and guidelines imposed by the
1268 U.S. Department of the Interior and/or Bureau of Reclamation.

1269 (b) These statutes require that no person in the United States shall, on the
1270 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
1271 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
1272 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
1273 Contractor agrees to immediately take any measures necessary to implement this obligation,
1274 including permitting officials of the United States to inspect premises, programs, and documents.

1275 (c) The Contractor makes this agreement in consideration of and for the
1276 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1277 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1278 Reclamation, including installment payments after such date on account of arrangements for
1279 Federal financial assistance which were approved before such date. The Contractor recognizes
1280 and agrees that such Federal assistance will be extended in reliance on the representations and
1281 agreements made in this Article, and that the United States reserves the right to seek judicial
1282 enforcement thereof.

1283

PRIVACY ACT COMPLIANCE

1284 25. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
1285 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
1286 seq.) in maintaining Landholder acreage certification and reporting records, required to be
1287 submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation
1288 Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

1289 (b) With respect to the application and administration of the criminal penalty
1290 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees
1291 responsible for maintaining the certification and reporting records referenced in (a) above are
1292 considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

1293 (c) The Contracting Officer or a designated representative shall provide the
1294 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
1295 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage
1296 Limitation—Interior, Reclamation-31) which govern the maintenance, safeguarding, and
1297 disclosure of information contained in the Landholder's certification and reporting records.

1298 (d) The Contracting Officer shall designate a full-time employee of the
1299 Bureau of Reclamation to be the System Manager who shall be responsible for making decisions
1300 on denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The
1301 Contractor is authorized to grant requests by individuals for access to their own records.

1302 (e) The Contractor shall forward promptly to the System Manager each
1303 proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed
1304 under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System
1305 Manager with information and records necessary to prepare an appropriate response to the
1306 requester. These requirements do not apply to individuals seeking access to their own
1307 certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18, unless the
1308 requester elects to cite the Privacy Act as a basis for the request.

1309 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1310 26. In addition to all other payments to be made by the Contractor pursuant to this
1311 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a
1312 bill and detailed statement submitted by the Contracting Officer to the Contractor for such
1313 specific items of direct cost incurred by the United States for work requested by the Contractor
1314 associated with this Contract plus indirect costs in accordance with applicable Bureau of
1315 Reclamation policies and procedures. All such amounts referred to in this Article of this
1316 Contract shall not exceed the amount agreed to in writing in advance by the Contractor. This
1317 Article of this Contract shall not apply to costs for routine contract administration.

1318 WATER CONSERVATION

1319 27. (a) Prior to the delivery of water provided from or conveyed through
1320 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
1321 shall be implementing an effective water conservation and efficiency program based on the
1322 Contractor's water conservation plan that has been determined by the Contracting Officer to
1323 meet the conservation and efficiency criteria for evaluating water conservation plans established

1324 under Federal law. The water conservation and efficiency program shall contain definite water
1325 conservation objectives, appropriate economically feasible water conservation measures, and
1326 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1327 Contract shall be contingent upon the Contractor's continued implementation of such water
1328 conservation program. In the event the Contractor's water conservation plan or any revised
1329 water conservation plan completed pursuant to subdivision (d) of this Article of this Contract
1330 have not yet been determined by the Contracting Officer to meet such criteria, due to
1331 circumstances which the Contracting Officer determines are beyond the control of the
1332 Contractor, water deliveries shall be made under this Contract so long as the Contractor
1333 diligently works with the Contracting Officer to obtain such determination at the earliest
1334 practicable date, and thereafter the Contractor immediately begins implementing its water
1335 conservation and efficiency program in accordance with the time schedules therein.

1336 (b) Should the amount of M&I Water Delivered pursuant to subdivision (a) of
1337 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the
1338 Contractor shall implement the Best Management Practices identified by the time frames issued
1339 by the California Urban Water Conservation Council for such M&I Water unless any such
1340 practice is determined by the Contracting Officer to be inappropriate for the Contractor.

1341 (c) The Contractor shall submit to the Contracting Officer a report on the
1342 status of its implementation of the water conservation plan on the reporting dates specified in the
1343 then-existing conservation and efficiency criteria established under Federal law.

1344 (d) At five (5) -year intervals, the Contractor shall revise its water
1345 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating
1346 water conservation plans established under Federal law and submit such revised water
1347 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
1348 will then determine if the water conservation plan meets Reclamation's then-existing
1349 conservation and efficiency criteria for evaluating water conservation plans established under
1350 Federal law.

1351 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1352 shall be described in the Contractor's water conservation plan.

1353 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1354 28. Except as specifically provided in Article 18 of this Contract, the provisions of
1355 this Contract shall not be applicable to or affect non-project Water or water rights now owned or
1356 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1357 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1358 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or
1359 any water user within the Contractor's Service Area acquires or has available under any other
1360 contract pursuant to Federal Reclamation law.

1361 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1362 29. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1363 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1364 Operating Non-Federal Entity by separate agreement between the United States and the

1365 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the
1366 rights or obligations of the Contractor or the United States hereunder.

1367 (b) The Contracting Officer has previously notified the Contractor in writing
1368 that the O&M of a portion of the Project facilities which serve the Contractor has been
1369 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1370 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer
1371 under the terms and conditions of the separate agreement between the United States and the
1372 Operating Non-Federal Entity described in subdivision (a) of this Article of this Contract, all
1373 rates, charges or assessments of any kind, including any assessment for reserve funds, which the
1374 Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the O&M
1375 of the portion of the Project facilities operated and maintained by the Operating Non-Federal
1376 Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and
1377 replacement costs for physical works and appurtenances associated with the Tracy Pumping
1378 Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the
1379 O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance
1380 and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity
1381 or such successor shall not relieve the Contractor of its obligation to pay directly to the United
1382 States the Contractor's share of the Project Rates, Charges, and Tiered Pricing Components
1383 except to the extent the Operating Non-Federal Entity collects payments on behalf of the United
1384 States in accordance with the separate agreement identified in subdivision (a) of this Article of
1385 this Contract.

1386 (c) For so long as the O&M of any portion of the Project facilities serving the
1387 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1388 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1389 Contract representing the cost associated with the activity being performed by the Operating
1390 Non-Federal Entity or its successor.

1391 (d) In the event the O&M of the Project facilities operated and maintained by
1392 the Operating Non-Federal Entity is re-assumed by the United States during the term of this
1393 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the
1394 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1395 Contractor for Project Water under this Contract representing the O&M costs of the portion of
1396 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the
1397 absence of written notification from the Contracting Officer to the contrary, pay the Rates,
1398 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the
1399 United States in compliance with Article 7 of this Contract.

1400 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1401 30. The expenditure or advance of any money or the performance of any obligation of
1402 the United States under this Contract shall be contingent upon appropriation or allotment of
1403 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1404 obligations under this Contract. No liability shall accrue to the United States in case funds are
1405 not appropriated or allotted.

1406 BOOKS, RECORDS, AND REPORTS

1407 31. (a) The Contractor shall establish and maintain accounts and other books and
1408 records pertaining to administration of the terms and conditions of this Contract, including: the
1409 Contractor's financial transactions, water supply data, and Project land and right-of-way
1410 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1411 data; and other matters that the Contracting Officer may require. Reports thereon shall be

1412 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1413 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1414 Contract shall have the right during office hours to examine and make copies of the other party's
1415 books and records relating to matters covered by this Contract.

1416 (b) Notwithstanding the provisions of subdivision (a) of this Article of this
1417 Contract, no books, records, or other information shall be requested from the Contractor by the
1418 Contracting Officer unless such books, records, or information are reasonably related to the
1419 administration or performance of this Contract. Any such request shall allow the Contractor a
1420 reasonable period of time within which to provide the requested books, records, or information.

1421 (c) At such time as the Contractor provides information to the Contracting
1422 Officer pursuant to subdivision (a) of this Article of this Contract, a copy of such information
1423 shall be provided to the Operating Non-Federal Entity.

1424 ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

1425 32. (a) The provisions of this Contract shall apply to and bind the successors and
1426 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1427 therein shall be valid until approved in writing by the Contracting Officer.

1428 (b) The assignment of any right or interest in this Contract by either party
1429 shall not interfere with the rights or obligations of the other party to this Contract absent the
1430 written concurrence of said other party.

1431 (c) The Contracting Officer shall not unreasonably condition or withhold
1432 approval of any proposed assignment.

1433 SEVERABILITY

1434 33. In the event that a person or entity who is neither (i) a party to a Project contract,
1435 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor

1436 (iii) an association or other form of organization whose primary function is to represent parties to
1437 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1438 enforceability of a provision included in this Contract and said person, entity, association, or
1439 organization obtains a final court decision holding that such provision is legally invalid or
1440 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1441 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of
1442 such final court decision identify by mutual agreement the provisions in this Contract which
1443 must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate
1444 revision(s). The time periods specified above may be extended by mutual agreement of the
1445 parties. Pending the completion of the actions designated above, to the extent it can do so
1446 without violating any applicable provisions of law, the United States shall continue to make the
1447 quantities of Project Water specified in this Contract available to the Contractor pursuant to the
1448 provisions of this Contract which were not found to be legally invalid or unenforceable in the
1449 final court decision.

1450 RESOLUTION OF DISPUTES

1451 34. Should any dispute arise concerning any provisions of this Contract, or the
1452 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1453 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1454 Officer referring any matter to Department of Justice, the party shall provide to the other party
1455 thirty (30) days written notice of the intent to take such action; Provided, That such notice shall
1456 not be required where a delay in commencing an action would prejudice the interests of the party

1457 that intends to file suit. During the thirty (30) day notice period, the Contractor and the
1458 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as
1459 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the
1460 Contractor or the United States may have.

1461 OFFICIALS NOT TO BENEFIT

1462 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1463 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1464 manner as other water users or landowners.

1465 CHANGES IN CONTRACTOR'S SERVICE AREA

1466 36. (a) While this Contract is in effect, no change may be made in the
1467 Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution,
1468 consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

1469 (b) Within thirty (30) days of receipt of a request for such a change, the
1470 Contracting Officer will notify the Contractor of any additional information required by the
1471 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1472 agreeable schedule for timely completion of the process. Such process will analyze whether the
1473 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1474 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1475 Contract or to pay for any Federally-constructed facilities for which the Contractor is
1476 responsible; and (iii) have an impact on any Project Water rights applications, permits, or
1477 licenses. In addition, the Contracting Officer shall comply with the National Environmental
1478 Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs

1479 incurred by the Contracting Officer in this process, and such costs will be paid in accordance
1480 with Article 26 of this Contract.

1481 FEDERAL LAWS

1482 37. By entering into this Contract, the Contractor does not waive its rights to contest
1483 the validity or application in connection with the performance of the terms and conditions of this
1484 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1485 the terms and conditions of this Contract unless and until relief from application of such Federal
1486 law or regulation to the implementing provision of the Contract is granted by a court of
1487 competent jurisdiction.

1488 EMERGENCY RESERVE FUND

1489 38. The Contractor and Contracting Officer acknowledge that the requirements to
1490 establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of
1491 Friant Division Facilities is and will continue to be administered under Contract No.
1492 8-07-20-X0356 titled Agreement To Transfer The Operation, Maintenance And Replacement
1493 And Certain Financial And Administrative Activities Related To The Friant-Kern Canal And
1494 Associated Works, dated March 1, 1998 as amended, supplemented, assigned, or renewed.

1495 MEDIUM FOR TRANSMITTING PAYMENT

1496 39. (a) All payments from the Contractor to the United States under this contract
1497 shall be by the medium requested by the United States on or before the date payment is due. The
1498 required method of payment may include checks, wire transfers, or other types of payment
1499 specified by the United States.

1500 (b) Upon execution of the contract, the Contractor shall furnish the
1501 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose
1502 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
1503 out of the Contractor's relationship with the United States.

1504

NOTICES

1505 40. Any notice, demand, or request authorized or required by this Contract shall be
1506 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1507 delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno,
1508 California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered
1509 to the Board of Directors of the Arvin-Edison Water Storage District, P.O. Box 174, Arvin,
1510 California 93203. The designation of the addressee or the address may be changed by notice
1511 given in the same manner as provided in this Article of this Contract for other notices.

1512

CONFIRMATION OF CONTRACT

1513 41. The Contractor, after the execution of this Contract, shall promptly provide to the
1514 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
1515 confirming the execution of this Contract. The Contractor shall furnish the United States a
1516 certified copy of the final decree, the validation proceedings, and all pertinent supporting records
1517 of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful,
1518 valid, and binding on the Contractor.

1519

CONTRACT DRAFTING CONSIDERATIONS

1520 42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20,
1521 subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31,
1522 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
1523 Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the
1524 parties hereto, each of whom is sophisticated in the matters to which this Contract pertains, and
1525 no one party shall be considered to have drafted the stated Articles.

1526 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day
1527 and year first above written.

THE UNITED STATES OF AMERICA

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY
James E. Turner
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

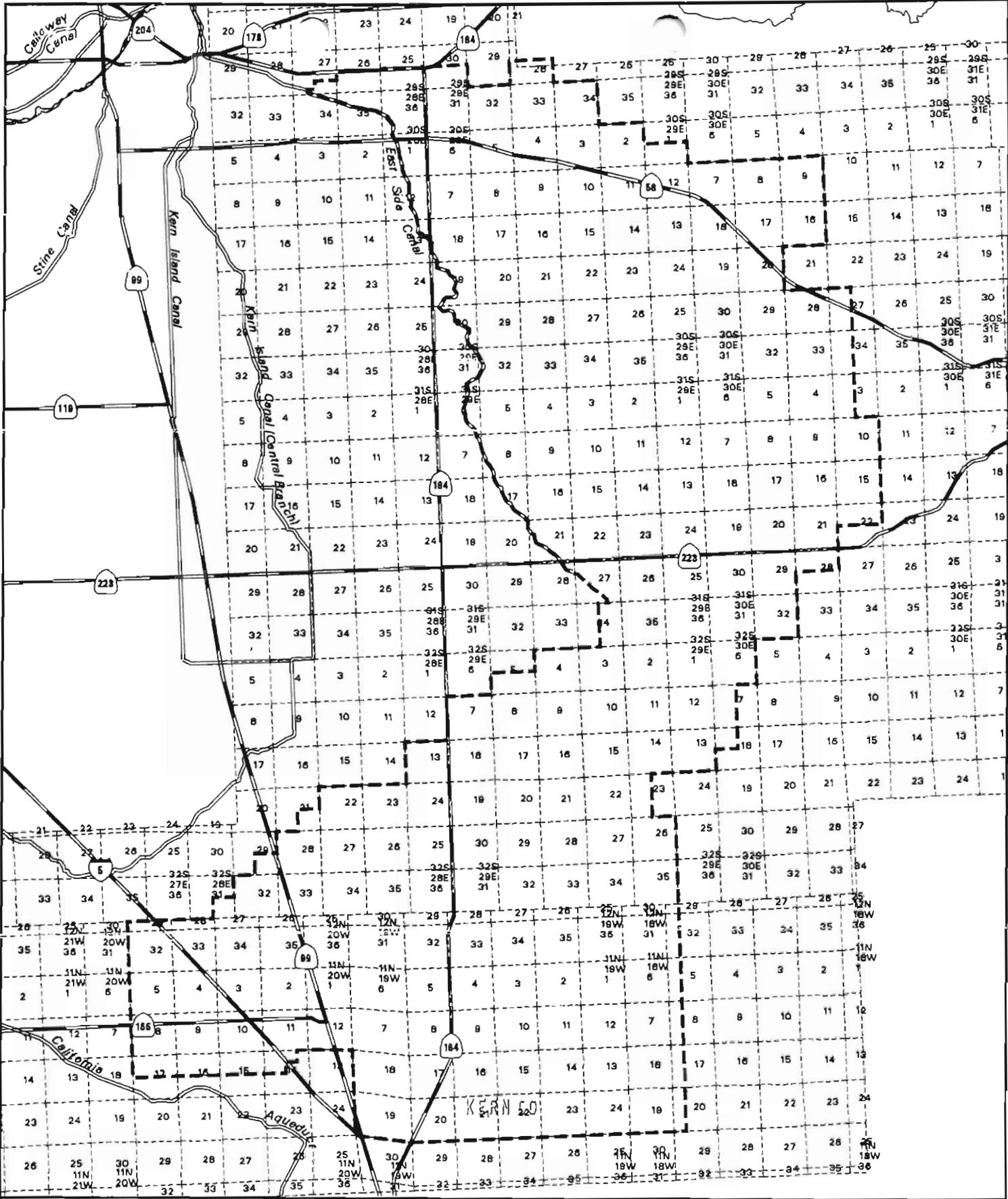
By: *Donald R. Larson*
Regional Director, Mid-Pacific Region
Bureau of Reclamation

ARVIN-EDISON WATER STORAGE DISTRICT

By: *Ken B. [Signature]*
President, Board of Directors

Attest:

By: *[Signature]*
Secretary



ARVIN-EDISON W.S.D.

EXHIBIT A

0 2.98 Miles

-  Service Area Boundary
-  Water District Boundary



U.S. BUREAU OF RECLAMATION

214-208-12653

EXHIBIT B

Rates and Charges

This is a placeholder page. The Rates and Charges will be transmitted to the Contractor at a later date.

Exhibit C-1

Repayment Obligation - Lump Sum Option

Friant Contractor:

Arvin-Edison

San Joaquin River Restoration Act

Existing Capital Obligation (Article 1(m))	\$ 23,553,426.98
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Irrigation portion of Existing Capital Obligation	\$ 23,767,502.98
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20yr CMT as of :	10/01/10	3.400%
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Discount Rate (1/2 20yr CMT)	1.700%
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Discounted Irrigation Capital	\$ 20,006,139.86
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Non-Discounted M&I Portion of Existing Capital Obligation	\$ (214,076.00)
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Repayment Obligation - Lump Sum Option (per Article 7(a)(2)(A))	\$ 19,792,063.86
--	-------------------------

Year	Irrigation Portion of Allocated Capital Cost	
	Beginning Balance	Straight Line Repayment
	2011	\$ 23,767,503
2012	\$ 22,579,128	\$ 1,188,375
2013	\$ 21,390,753	\$ 1,188,375
2014	\$ 20,202,378	\$ 1,188,375
2015	\$ 19,014,002	\$ 1,188,375
2016	\$ 17,825,627	\$ 1,188,375
2017	\$ 16,637,252	\$ 1,188,375
2018	\$ 15,448,877	\$ 1,188,375
2019	\$ 14,260,502	\$ 1,188,375
2020	\$ 13,072,127	\$ 1,188,375
2021	\$ 11,883,751	\$ 1,188,375
2022	\$ 10,695,376	\$ 1,188,375
2023	\$ 9,507,001	\$ 1,188,375
2024	\$ 8,318,626	\$ 1,188,375
2025	\$ 7,130,251	\$ 1,188,375
2026	\$ 5,941,876	\$ 1,188,375
2027	\$ 4,753,501	\$ 1,188,375
2028	\$ 3,565,125	\$ 1,188,375
2029	\$ 2,376,750	\$ 1,188,375
2030	\$ 1,188,375	\$ 1,188,375
		\$ 23,767,503

Exhibit D

Friant Surcharge Reduction Calculation

**Friant Contractor:
San Joaquin River Restoration Act**

Arvin-Edison

Average Annual Delivery - Forecasted for 2020-2039*	77,635
Total Projected deliveries (over 20 yr period)**	
Article 7(c)	1,552,700
20 yr CMT as of 10/1/2010	3.400%
1/2 20 yr CMT as of 10/1/2010	1.700%
Irrigation Portion of Existing Capital Obligation	\$23,767,503
NPV at Half CMT (Repayment Obligation)	\$20,006,140
NPV at Full CMT	\$17,043,518
Financing Cost Offset: [Ⓢ] (Article 7(c)(1))	\$2,962,622
NPV of FS Reduction	\$2,472,291
Difference between Financing Cost Offset and NPV of FS Reduction	\$490,330
2020 Other Obligation Credit (FV of difference) (Art. 7(c)(2))***	\$662,481

Year	Irrigation portion of Allocated Capital Cost		CVPIA Friant	Reduction in Friant Surcharge			
	Beginning Balance	Straight Line Repayment	Surcharges	Friant Surcharge Reduction per Article c(1)	Friant Surcharge due per A/F after Reduction	Projected Total Annual Credit	2020 Other Obligation Credit Calculation (Art. 7(c)(2))
2011	\$ 23,767,503	\$ 1,188,375	\$7.00		\$7.00	0	\$ 490,330.31
2012	\$ 22,579,128	\$ 1,188,375	\$7.00		\$7.00	0	\$ 507,001.54
2013	\$ 21,390,753	\$ 1,188,375	\$7.00		\$7.00	0	\$ 524,239.60
2014	\$ 20,202,378	\$ 1,188,375	\$7.00		\$7.00	0	\$ 542,063.74
2015	\$ 19,014,002	\$ 1,188,375	\$7.00		\$7.00	0	\$ 560,493.91
2016	\$ 17,825,627	\$ 1,188,375	\$7.00		\$7.00	0	\$ 579,550.70
2017	\$ 16,637,252	\$ 1,188,375	\$7.00		\$7.00	0	\$ 599,255.43
2018	\$ 15,448,877	\$ 1,188,375	\$7.00		\$7.00	0	\$ 619,630.11
2019	\$ 14,260,502	\$ 1,188,375	\$7.00		\$7.00	0	\$ 640,697.53
2020	\$ 13,072,127	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(\$232,905)	\$ 662,481.25
2021	\$ 11,883,751	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2022	\$ 10,695,376	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2023	\$ 9,507,001	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2024	\$ 8,318,626	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2025	\$ 7,130,251	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2026	\$ 5,941,876	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2027	\$ 4,753,501	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2028	\$ 3,565,125	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2029	\$ 2,376,750	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2030	\$ 1,188,375	\$ 1,188,375	\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2031			\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2032			\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2033			\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2034			\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2035			\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2036			\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2037			\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2038			\$7.00	(\$3.00)	\$ 4.00	(232,905)	
2039			\$7.00	(\$3.00)	\$ 4.00	(232,905)	
	\$ 23,767,503					(\$4,658,100)	

Exhibit D

Friant Surcharge Reduction Calculation

Footnotes

* Average annual delivery forecast indicated above is a mutually agreed upon estimate of deliveries during the period 2020-2039 for purposes of calculating the Friant Surcharge reduction and related credits only.

** This figure represents the total cumulative deliveries the reduced surcharge is applicable to, but not beyond 2039. If cumulative actual deliveries exceed this amount prior to 2039, the full Friant Surcharge is applicable to deliveries in excess of this amount.

*** The difference represents the amount of financing costs that are not offset through the reduced Friant Surcharge computed on this schedule. Pursuant to Section 7(c)(2), this amount shall offset the Contractor's other outstanding or future obligations. After 2020, the contractor's other obligations shall be reduced in the following order to fully offset this amount: 1) Payments or prepayments due for O&M expenses and, to the extent applicable, 2) Additional Capital Obligation.

@ Amount of reduction in Friant Surcharge is computed using FPV of Financing Costs adjusted to Yr 2020. Annual Friant Surcharge reduction to fully offset Financing costs is computed and presented on per a/f basis. Friant surcharge may be reduced up to \$3 per a/f.

Friant Surcharge (FS) Reduction Calculations

FV of Total Financing Cost for Offset	\$	4,138,868
Annual Credit Target	\$	(279,097)
FS Reduction w/o limit	\$	(3.59)
FS Reduction limit	\$	(3.00)

EXHIBIT E

Restated Contract¹

Irrigation and M&I
Contract No. 14-06-200-229AD

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
ARVIN-EDISON WATER STORAGE DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM
FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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¹ Pursuant to subdivision (b) of Article 2 of the Contract to which this exhibit is attached, this Exhibit “E” makes no substantive revisions to the Contract to which it is attached and is prepared solely as a matter of administrative convenience. In this Exhibit “E”, references to “Contract” or “this Contract” refers to this Restated Contract.

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1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 CONTRACT BETWEEN THE UNITED STATES
6 AND
7 ARVIN-EDISON WATER STORAGE DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM FRIANT DIVISION AND
10 FACILITIES REPAYMENT

11 THIS CONTRACT, made this 1ST day of NOVEMBER, 2010, is entered
12 into pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary
13 thereto, including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956
15 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986
16 (100 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and
17 Title X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San
18 Joaquin River Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively
19 hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF
20 AMERICA, hereinafter referred to as the United States and ARVIN-EDISON WATER
21 STORAGE DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of
22 California, duly organized, existing, and acting pursuant to the laws thereof, with its principal
23 place of business in California;

24 WITNESSETH, That

EXPLANATORY RECITALS

25
26 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
27 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood
28 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
29 restoration, generation and distribution of electric energy, salinity control, navigation and other
30 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and
31 the San Joaquin River and their tributaries; and

32 [2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton
33 Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant
34 Division Facilities, which will be used in part for the furnishing of water to the Contractor
35 pursuant to the terms of this Contract; and

36 [3rd] WHEREAS, the United States and the Contractor entered into Contract Number
37 14-06-200-229A, as amended, which established terms for the delivery to the Contractor of
38 Project Water from the Friant Division from August 30, 1962 through February 28, 1995; and

39 [4th] WHEREAS, the Contractor and the United States have, pursuant to subsection
40 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
41 interim renewal contract(s), identified as Contract Number (s) 14-06-200-229A-IR1, IR2, IR3,
42 and IR4, which provided for the continued water service to Contractor from March 1, 1995
43 through February 28, 2001, and subsequently entered into a long-term renewal contract identified
44 as Contract Number 14-06-200-229A-LTR1, which provided for continued water service to

45 Contractor through February 28, 2026, which was amended January 18, 2007, and is herein
46 referred to as the “Existing Contract”; and

47 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
48 United States has acquired water rights and other rights to the flows of the San Joaquin River,
49 including without limitation the permits issued as the result of Decision 935 by the California
50 State Water Resource Control Board and the contracts described in subdivision (n) of Article 3
51 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers
52 Project Water stored or flowing through Millerton Lake in accordance with State and Federal law
53 for the benefit of Project Contractors in the Friant Division and for other specified Project
54 purposes; and

55 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is
56 Project Water developed through the exercise of the rights described in the fifth (5th) Explanatory
57 Recital of this Contract; and

58 [7th] WHEREAS, as a result of litigation entitled “Natural Resources Defense Council,
59 et al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant
60 Division entered into a Stipulation of Settlement dated September 13, 2006, (the “Settlement”),
61 which settlement prescribes a Restoration Goal and a Water Management Goal and which
62 Settlement was subsequently confirmed and implemented through the SJRRSA; and

63 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the
64 Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August
65 4, 1939, no later than December 31, 2010, and further directs that such contract shall require the

66 accelerated repayment of the Contractor's allocated share of construction costs, either as a lump
67 sum payment by January 31, 2011 or in annual installments by January 31, 2014, which funds
68 will in turn be made available for implementation of the Settlement and SJRRSA, and which
69 costs otherwise would have been payable through annual water rates, with full repayment by
70 2030; and

71 [9th] WHEREAS, such repayment of costs will assist the United States with
72 implementation of actions required under the Settlement and the SJRRSA and provide the
73 Contractor the benefits provided in Section 10010 of the SJRRSA; and

74 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act)
75 directs the Secretary to provide that the other party to any contract entered into pursuant to
76 subsection (d) of Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to
77 subsection (e) of Section 9 of the Act of August 4, 1939 (water service contract) shall "have the
78 first right (to which the rights of the holders of any other type of irrigation water contract shall be
79 subordinate) to a stated share or quantity of the project's available water supply for beneficial
80 use on the irrigable lands within the boundaries of, or owned by, the party and a permanent right
81 to such share or quantity upon completion of payment of the amount assigned for ultimate
82 return" by the contractor subject to fulfillment of all obligations under the contract; and

83 [11th] WHEREAS, among other things, this Contract includes provisions granting the
84 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

85 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
86 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for

87 reasonable and beneficial use and/or has demonstrated projected future demand for water use
88 such that the Contractor has the capability and expects to utilize fully for reasonable and
89 beneficial use the quantity of Project Water to be made available to it pursuant to this Contract;
90 and

91 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon
92 by urban and agricultural areas within California for more than fifty (50) years and is considered
93 by the Contractor as an essential portion of its water supply; and

94 [14th] WHEREAS, the economies of regions within the Central Valley Project,
95 including the Contractor's, depend upon the continued availability of water, including water
96 service from the Central Valley Project; and

97 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and
98 partnerships to pursue measures to improve water supply, water quality, and reliability of the
99 Project for all Project purposes; and

100 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
101 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
102 repayment of the Central Valley Project as required by law; to guard reasonably against Project
103 Water shortages; to achieve a reasonable balance among competing demands for use of Project
104 Water; and to comply with all applicable environmental statutes, all consistent with the legal
105 obligations of the United States relative to the Central Valley Project; and

106 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a
107 need exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to

108 meet flood control criteria (currently referred to as “uncontrolled season”), taking into
109 consideration, among other things, anticipated upstream reservoir operations and the most
110 probable forecast of snowmelt and runoff projections for the upper San Joaquin River, Friant
111 Division Project Contractors utilize a portion of their undependable Class 2 Water in their
112 service areas to, among other things, assist in the management and alleviation of groundwater
113 overdraft in the Friant Division service area, provide opportunities for restoration of the San
114 Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage
115 optimal water management, and maximize the reasonable and beneficial use of the water; and

116 [18th] WHEREAS, the parties desire and intend that this Contract not provide a
117 disincentive to the Friant Division Project Contractors continuing to carry out the beneficial
118 activities set out in the Explanatory Recital immediately above; and

119 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all
120 of its obligations under the Existing Contract.

121 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
122 contained, it is hereby mutually agreed by the parties hereto as follows:

123 DEFINITIONS

124 1. When used herein, unless otherwise distinctly expressed or manifestly
125 incompatible with the intent of the parties as expressed in this Contract, the term:

126 (a) “Additional Capital Obligation” shall mean any additional construction
127 costs or other capitalized costs incurred after the effective date of this Contract or not reflected in
128 the Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any

129 amounts payable by Contractor as determined through the final adjustment described and
130 required by Section 10010(b) of the SJRRSA;

131 (b) "Calendar Year" shall mean the period January 1 through December 31,
132 both dates inclusive;

133 (c) "Charges" shall mean the payments required by Federal Reclamation law
134 in addition to the Rates specified in this Contract as determined annually by the Contracting
135 Officer pursuant to this Contract and consistent with the SJRRSA;

136 (d) "Class 1 Water" shall mean that supply of water stored in or flowing
137 through Millerton Lake which, subject to the contingencies hereinafter described in Articles 3,
138 12, and 13 of this Contract, will be available for delivery from Millerton Lake and the
139 Friant-Kern and Madera Canals as a dependable water supply during each Year;

140 (e) "Class 2 Water" shall mean that supply of water which can be made
141 available subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this
142 Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to
143 the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence,
144 such water will be undependable in character and will be furnished only if, as, and when it can be
145 made available as determined by the Contracting Officer;

146 (f) "Condition of Shortage" shall mean a condition respecting the Project
147 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the
148 Contract Total;

149 (g) “Contracting Officer” shall mean the Secretary of the Interior’s duly
150 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law
151 or regulation;

152 (h) “Contract Total” shall mean the maximum amount of Class 1 Water plus
153 the maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract
154 and is the stated share or quantity of the Project’s available water supply to which the Contractor
155 has a permanent right in accordance with the 1956 Act and the terms of this Contract, due to the
156 Contractor’s complete payment of the Repayment Obligation, notwithstanding any Additional
157 Capital Obligation that may later be established, which right shall not be disturbed so long as the
158 Contractor fulfills all of its obligations under this Contract;

159 (i) “Contractor’s Service Area” shall mean the area to which the Contractor is
160 permitted to provide Project Water under this Contract as described in Exhibit “A” attached
161 hereto, which may be modified from time to time in accordance with Article 36 of this Contract
162 without amendment of this Contract;

163 (j) “CVPIA” shall mean the Central Valley Project Improvement Act, Title
164 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

165 (k) Omitted;

166 (l) Omitted;

167 (m) “Existing Capital Obligation” shall mean the remaining amount of
168 construction costs of the Contractor identified in the Central Valley Project Irrigation Water
169 Rates and/or Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as

170 adjusted to reflect payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A)
171 of the SJRRSA. The Contracting Officer has computed the Existing Capital Obligation in a
172 manner consistent with the SJRRSA and such amount is set forth in Exhibits "C-1" and "C-2",
173 incorporated herein by reference;

174 (n) "Financing Costs", for purposes of computing the reduction of certain
175 charges as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference
176 between the net present value of the Existing Capital Obligation discounted using the full
177 Treasury rate and the Existing Capital Obligation discounted using one-half the Treasury rate, as
178 set forth in Section 10010(d)(3) of the SJRRRA;

179 (o) Omitted;

180 (p) Omitted;

181 (q) Omitted;

182 (r) "Irrigation Water" shall mean water made available from the Project that
183 is used primarily in the production of agricultural crops or livestock, including domestic use
184 incidental thereto, and watering of livestock;

185 (s) Omitted;

186 (t) "Long Term Historic Average" shall mean the average of the final forecast
187 of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced
188 in the third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

189 (u) "Municipal and Industrial (M&I) Water" shall mean Water Made
190 Available from the Project other than Irrigation Water made available to the Contractor. M&I

191 Water shall include water used for human use and purposes such as the watering of landscaping
192 or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to
193 land holdings operated in units of less than five (5) acres unless the Contractor establishes to the
194 satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a
195 use described in subdivision (r) of this Article of this Contract;

196 (v) Omitted;

197 (w) "Operation and Maintenance" or "O&M" shall mean normal and
198 reasonable care, control, operation, repair, replacement (other than Capital replacement), and
199 maintenance of Project facilities;

200 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or
201 its successor, a Non-Federal entity, which has the obligation to operate and maintain all or a
202 portion of the Friant Division Facilities pursuant to an agreement with the United States and
203 which may have funding obligations with respect thereto;

204 (y) Omitted;

205 (z) "Project" shall mean the Central Valley Project owned by the United
206 States and managed by the Department of the Interior, Bureau of Reclamation;

207 (aa) "Project Contractors" shall mean all parties who have a long-term water
208 service contract or repayment contract for Project Water from the Project with the United States
209 pursuant to Federal Reclamation law;

210 (bb) "Project Water" shall mean all water that is developed, diverted, stored, or
211 delivered by the Secretary in accordance with the statutes authorizing the Project and in
212 accordance with the terms and conditions of water rights acquired pursuant to California law;

213 (cc) "Rates" shall mean the payments for O&M costs as determined annually
214 by the Contracting Officer in accordance with the then-existing applicable water ratesetting
215 policies for the Project, as described in subdivision (a) of Article 7 of this Contract and
216 illustrated in Exhibit "B", attached hereto;

217 (dd) "Recovered Water Account" shall mean the program, as defined in the
218 Settlement, to make water available to all of the Friant Division Project Contractors who provide
219 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the
220 impact of the interim flows and restoration flows on such contractors;

221 (ee) "Repayment Obligation", as provided in subdivision (a)(2)(A) of Article 7
222 of this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by
223 one-half of the Treasury rate and computed consistent with the provisions of Section
224 10010(a)(3)(A) of the SJRRSA to be paid as either a lump sum payment by January 31, 2011 or
225 in approximately equal annual installments by January 31, 2014;

226 (ff) "Secretary" shall mean the Secretary of the Interior, a duly appointed
227 successor, or an authorized representative acting pursuant to any authority of the Secretary and
228 through any agency of the Department of the Interior;

229 (gg) "Settlement" shall mean the Stipulation of Settlement dated September 13,
230 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued

231 by the Court pursuant to the terms and conditions of the Settlement in Natural Resources
232 Defense Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

233 (hh) Omitted;

234 (ii) "Water Delivered" or "Delivered Water" shall mean Project Water
235 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting
236 Officer;

237 (jj) "Water Made Available" shall mean the estimated amount of Project
238 Water that can be delivered to the Contractor for the upcoming Year as declared by the
239 Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

240 (kk) "Water Management Goal" shall mean the goal of the Settlement to
241 reduce or avoid adverse water supply impacts to all the Friant Division Project Contractors that
242 may result from the interim flows and restoration flows provided for in the Settlement;

243 (ll) "Water Scheduled" shall mean Project Water made available to the
244 Contractor for which times and quantities for delivery have been established by the Contractor
245 and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

246 (mm) "Year" shall mean the period from and including March 1 of each
247 Calendar Year through the last day of February of the following Calendar Year.

248 EFFECTIVE DATE OF CONTRACT

249 2. (a) This Contract shall become effective on the date first hereinabove written
250 and shall continue so long as the Contractor is making the annual payments required herein and
251 paying any other amounts owing under this Contract and applicable law, unless it is terminated

252 by the Contracting Officer by reason of a material uncured breach by the Contractor; Provided,
253 That the Contracting Officer shall not seek to terminate this Contract by reason of an asserted
254 material uncured breach by the Contractor unless it has first provided at least sixty (60) days
255 written notice of the asserted breach to the Contractor and the Contractor has failed to cure such
256 breach (or to diligently commence curative actions satisfactory to the Contracting Officer for a
257 breach that cannot be fully cured within sixty (60) days) within the sixty (60)-day notice period;
258 Provided further, That this Contract may be terminated at any time by mutual consent of the
259 parties hereto.

260 (b) The Contractor has paid the Repayment Obligation, and notwithstanding
261 any Additional Capital Obligation that may later be established, the tiered pricing component and
262 the acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law,
263 shall no longer be applicable to the Contractor.

264 (c) This Contract supersedes in its entirety and is intended to replace in full
265 the Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or
266 unenforceable for any reason other than a material uncured breach of this Contract by the
267 Contractor, the Existing Contract shall not be superseded and shall be in full force and effect.

268 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

269 3. (a) During each Year, consistent with all applicable State water rights,
270 permits, and licenses, Federal law, the Settlement including the SJRRSA, and subject to the
271 provisions set forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make
272 available for delivery to the Contractor from the Project 40,000 acre-feet of Class 1 Water and

273 311,675 acre-feet of Class 2 Water for irrigation and M&I purposes. The quantity of Water
274 Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for
275 pursuant to the provisions of Articles 4 and 7 of this Contract.

276 (b) The Contractor has paid the Repayment Obligation, and notwithstanding
277 any Additional Capital Obligation that may later be established, the Contractor has a permanent
278 right to the Contract Total in accordance with the 1956 Act and the terms of this Contract. This
279 right shall not be disturbed so long as the Contractor fulfills all of its obligations hereunder. The
280 quantity of water made available for delivery in any given Year shall remain subject to the terms
281 and conditions of subdivision (a) of this Article of this Contract.

282 (c) The Contractor shall utilize the Project Water in accordance with all
283 applicable legal requirements.

284 (d) The Contractor shall make reasonable and beneficial use of all Project
285 Water or other water furnished pursuant to this Contract. Groundwater recharge programs,
286 groundwater banking programs, surface water storage programs, and other similar programs
287 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
288 Contractor's Service Area which are consistent with applicable State law and result in use
289 consistent with applicable Federal Reclamation law will be allowed; Provided, That any direct
290 recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted
291 pursuant to Article 27 of this Contract; Provided further, That such Water Conservation Plan
292 demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a
293 long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such

294 uses and in compliance with Federal Reclamation law. Groundwater recharge programs,
295 groundwater banking programs, surface water storage programs, and other similar programs
296 utilizing Project Water or other water furnished pursuant to this Contract conducted outside the
297 Contractor's Service Area may be permitted upon written approval of the Contracting Officer,
298 which approval will be based upon environmental documentation, Project Water rights, and
299 Project operational concerns. The Contracting Officer will address such concerns in regulations,
300 policies, or guidelines.

301 (e) The Contractor, through this Contract, shall comply with requirements
302 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation
303 regarding the execution of the Existing Contract undertaken pursuant to Section 7 of the
304 Endangered Species Act of 1973, as amended, as well as the requirements of any other biological
305 opinions applicable to Project Water delivery under this Contract, that are within the
306 Contractor's legal authority to implement. The Contractor shall comply with the limitations or
307 requirements imposed by environmental documentation applicable to the Contractor and within
308 its legal authority to implement regarding specific activities, including conversion of Irrigation
309 Water to M&I Water. Nothing herein shall be construed to prevent the Contractor from
310 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
311 biological opinion or other environmental documentation referred to in this Article of this
312 Contract.

313 (f) Subject to subdivisions (l) and (n) of this Article of this Contract,
314 following the declaration of Water Made Available under Article 4 of this Contract, the

315 Contracting Officer will make a determination whether Project Water, or other water available to
316 the Project, can be made available to the Contractor in addition to the Contract Total in this
317 Article of this Contract during the Year without adversely impacting the Project or other Project
318 Contractors and consistent with the Secretary's legal obligations. At the request of the
319 Contractor, the Contracting Officer will consult with the Contractor prior to making such a
320 determination. Subject to subdivisions (l) and (n) of this Article of this Contract, if the
321 Contracting Officer determines that Project Water, or other water available to the Project, can be
322 made available to the Contractor, the Contracting Officer will announce the availability of such
323 water and shall so notify the Contractor as soon as practical. The Contracting Officer will
324 thereafter meet with the Contractor and other Project Contractors capable of taking such water to
325 determine the most equitable and efficient allocation of such water. If the Contractor requests
326 the delivery of any quantity of such water, the Contracting Officer shall make such water
327 available to the Contractor in accordance with applicable statutes, regulations, guidelines, and
328 policies.

329 (g) The Contractor may request permission to reschedule for use during the
330 subsequent Year some or all of the Water Made Available to the Contractor during the current
331 Year referred to as "carryover." The Contractor may request permission to use during the
332 current Year a quantity of Project Water which may be made available by the United States to
333 the Contractor during the subsequent Year referred to as "pre-use." The Contracting Officer's
334 written approval may permit such uses in accordance with applicable statutes, regulations,
335 guidelines, and policies.

336 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
337 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract
338 shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this
339 Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to
340 impose shortages under Article 12 or subdivision (b) of Article 13 of this Contract.

341 (i) Project Water furnished to the Contractor pursuant to this Contract may be
342 delivered for purposes other than those described in subdivisions (r) and (u) of Article 1 of this
343 Contract upon written approval by the Contracting Officer in accordance with the terms and
344 conditions of such approval.

345 (j) The Contracting Officer shall make reasonable efforts to protect the water
346 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to
347 provide the water available under this Contract. The Contracting Officer shall not object to
348 participation by the Contractor, in the capacity and to the extent permitted by law, in
349 administrative proceedings related to the water rights and other rights described in the fifth (5th)
350 Explanatory Recital of this Contract; Provided however, That the Contracting Officer retains the
351 right to object to the substance of the Contractor's position in such a proceeding. Provided
352 further, that in such proceedings the Contracting Officer shall recognize the Contractor has a
353 legal right under the terms of this Contract to use Project Water.

354 (k) Project Water furnished to the Contractor during any month designated in
355 a schedule or revised schedule submitted by the Contractor and approved by the Contracting
356 Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent

357 that Class 1 Water is called for in such schedule for such month and shall be deemed to have
358 been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such
359 month. If in any month the Contractor diverts a quantity of water in addition to the total amount
360 of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised
361 schedule for such month, such additional diversions shall be charged first against the
362 Contractor's remaining Class 2 Water supply available in the current Year. To the extent the
363 Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to
364 account for such additional diversions, such additional diversions shall be charged against the
365 Contractor's remaining Class 1 Water supply available in the current Year. To the extent the
366 Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year
367 are not sufficient to account for such additional diversions, such additional diversions shall be
368 charged first against the Contractor's available Class 2 Water supply and then against the
369 Contractor's available Class 1 Water supply, both for the following Year. Payment for all
370 additional diversions of water shall be made in accordance with Article 7 of this Contract.

371 (l) If the Contracting Officer determines there is a Project Water supply
372 available at Friant Dam as the result of an unusually large water supply not otherwise storable for
373 Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such
374 water will be made available to the Contractor and others under Section 215 of the Act of
375 October 12, 1982, pursuant to the priorities specified below if the Contractor enters into a
376 temporary contract with the United States not to exceed one (1) year for the delivery of such
377 water or as otherwise provided for in Federal Reclamation law and associated regulations. Such

378 water may be identified by the Contractor either (i) as additional water to supplement the supply
379 of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon
380 written notification to the Contracting Officer, as water to be credited against the Contractor's
381 Class 2 Water supply available pursuant to this Contract. The Contracting Officer shall make
382 water determined to be available pursuant to this subsection according to the following priorities:
383 first, to contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to
384 contractors in the Cross Valley Division of the Project. The Contracting Officer will consider
385 requests from other parties for Section 215 Water for use within the area identified as the Friant
386 Division service area in the environmental assessment developed in connection with the
387 execution of the Existing Contract.

388 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
389 Contracting Officer in connection with the implementation of this Contract, is intended to
390 override, modify, supersede or otherwise interfere with any term or condition of the water rights
391 and other rights referred in the fifth (5th) Explanatory Recital of this Contract.

392 (n) The rights of the Contractor under this Contract are subject to the terms of
393 the contract for exchange waters, dated July 27, 1939, between the United States and the San
394 Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred
395 to as the Exchange Contractors), Contract No. 11r-1144, as amended. The United States agrees
396 that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River
397 unless and until required by the terms of said contract, and the United States further agrees that it
398 will not voluntarily and knowingly determine itself unable to deliver to the Exchange

399 Contractors entitled thereto from water that is available or that may become available to it from
400 the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities
401 required to satisfy the obligations of the United States under said Exchange Contract and under
402 Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract 11r-1145,
403 dated July 27, 1939).

404 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph
405 16 of the Settlement, the Contracting Officer is required to develop and implement a plan for
406 recirculation, recapture, reuse, exchange or transfer of water released for restoration flows or
407 interim flows, as those terms are defined in the Settlement, to reduce or avoid impacts to water
408 deliveries caused by said restoration flows or interim flows and water developed through such
409 activities may be made available (i) to the Contractor without the need of an additional contract,
410 and/or (ii) to others on behalf of the Contractor under terms mutually acceptable to the
411 Contractor and the Contracting Officer that are consistent with the Water Management Goal.

412 TIME FOR DELIVERY OF WATER

413 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer
414 shall announce the Contracting Officer's initial declaration of the Water Made Available. The
415 declaration will be updated monthly and more frequently if necessary, based on then-current
416 operational and hydrologic conditions and a new declaration with changes, if any, to the Water
417 Made Available will be made. The Contracting Officer shall provide forecasts of Project
418 operations and the basis of the estimate, with relevant supporting information, upon the written
419 request of the Contractor. Concurrently with the declaration of the Water Made Available, the

420 Contracting Officer shall provide the Contractor with the updated Long Term Historic Average.
421 The declaration of Project operations will be expressed in terms of both Water Made Available
422 and the Long Term Historic Average.

423 (b) On or before each March 1 and at such other times as necessary, the
424 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the
425 Contracting Officer, showing the monthly quantities of Project Water to be delivered by the
426 United States to the Contractor pursuant to this Contract for the Year commencing on such
427 March 1. The Contracting Officer shall use all reasonable means to deliver Project Water
428 according to the approved schedule for the Year commencing on such March 1.

429 (c) The Contractor shall not schedule Project Water in excess of the quantity
430 of Project Water the Contractor intends to put to reasonable and beneficial use within the
431 Contractor's Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract
432 or bank pursuant to subdivision (d) of Article 3 of this Contract during any Year.

433 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
434 Contract, the United States shall deliver Project Water to the Contractor in accordance with the
435 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any
436 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
437 time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided,
438 That the total amount of water requested in that schedule or revision does not exceed the
439 quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of
440 Article 3 of this Contract, and the Contracting Officer determines that there will be sufficient

441 capacity available in the appropriate Friant Division Facilities to deliver the water in accordance
442 with that schedule; Provided further, That the Contractor shall not schedule the delivery of any
443 water during any period as to which the Contractor is notified by the Contracting Officer or
444 Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor
445 will not be in operation because of scheduled O&M.

446 (e) The Contractor may, during the period from and including November 1 of
447 each Year through and including the last day of February of that Year, request delivery of any
448 amount of the Class 1 Water estimated by the Contracting Officer to be made available to it
449 during the following Year. The Contractor may, during the period from and including January 1
450 of each Year (or such earlier date as may be determined by the Contracting Officer) through and
451 including the last day of February of that Year, request delivery of any amount of Class 2 Water
452 estimated by the Contracting Officer to be made available to it during the following Year. Such
453 water shall hereinafter be referred to as pre-use water. Such request must be submitted in writing
454 by the Contractor for a specified quantity of pre-use and shall be subject to the approval of the
455 Contracting Officer. Payment for pre-use water so requested shall be at the appropriate Rate(s)
456 for the following Year in accordance with Article 7 of this Contract and shall be made in
457 advance of delivery of any pre-use water. The Contracting Officer shall deliver such pre-use
458 water in accordance with a schedule or any revision thereof submitted by the Contractor and
459 approved by the Contracting Officer, to the extent such water is available and to the extent such
460 deliveries will not interfere with the delivery of Project Water entitlements to other Friant
461 Division contractors or the physical maintenance of the Project facilities. The quantities of

462 pre-use Water Delivered pursuant to this subdivision shall be deducted from the quantities of
463 water that the Contracting Officer would otherwise be obligated to make available to the
464 Contractor during the following Year; Provided, That the quantity of pre-use water to be
465 deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the
466 Contractor in the following Year shall be specified by the Contractor at the time the pre-use
467 water is requested or as revised in its first schedule for the following Year submitted in
468 accordance with subdivision (b) of this Article of this Contract, based on the availability of the
469 following Year water supplies as determined by the Contracting Officer.

470 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

471 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
472 Contract shall be delivered to the Contractor at a point or points of delivery either on Project
473 facilities or another location or locations mutually agreed to in writing by the Contracting Officer
474 and the Contractor.

475 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
476 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of
477 water in the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts
478 established pursuant to subdivision (a) of this Article of this Contract.

479 (c) The Contractor shall not deliver Project Water to land outside the
480 Contractor's Service Area unless approved in advance by the Contracting Officer. The
481 Contractor shall deliver Project Water in accordance with applicable Federal Reclamation law.

482 (d) All Water Delivered to the Contractor pursuant to this Contract shall be

483 measured and recorded with equipment furnished, installed, operated, and maintained by the
484 United States, the Operating Non-Federal Entity or other appropriate entity as designated by the
485 Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery
486 established pursuant to subdivision (a) of this Article of this Contract. Upon the request of either
487 party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the
488 responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any
489 necessary steps to adjust any errors appearing therein. For any period of time when accurate
490 measurements have not been made, the Contracting Officer shall consult with the Contractor and
491 the responsible Operating Non-Federal Entity prior to making a final determination of the
492 quantity delivered for that period of time.

493 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity
494 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project
495 Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified
496 in subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United
497 States, its officers, employees, agents, and assigns on account of damage or claim of damage of
498 any nature whatsoever for which there is legal responsibility, including property damage,
499 personal injury, or death arising out of or connected with the control, carriage, handling, use,
500 disposal, or distribution of such Project Water beyond such delivery points, except for any
501 damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its
502 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity,
503 with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct

504 of the Contracting Officer or any of its officers, employees, agents, or assigns, including any
505 responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of
506 its officers, employees, agents, or assigns including any responsible Operating Non-Federal
507 Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
508 by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor
509 is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies)
510 from which the damage claim arose.

511 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

512 6. (a) The Contractor has established a measurement program satisfactory to the
513 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's
514 Service Area is measured at each agricultural turnout; and water delivered for M&I purposes is
515 measured at each M&I service connection. The water measuring devices or water measuring
516 methods of comparable effectiveness must be acceptable to the Contracting Officer. The
517 Contractor shall be responsible for installing, operating, and maintaining and repairing all such
518 measuring devices and implementing all such water measuring methods at no cost to the United
519 States. The Contractor shall use the information obtained from such water measuring devices or
520 water measuring methods to ensure its proper management of the water, to bill water users for
521 water delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes
522 by customer class as defined in the Contractor's water conservation plan provided for in Article
523 27 of this Contract. Nothing herein contained, however, shall preclude the Contractor from

524 establishing and collecting any charges, assessments, or other revenues authorized by California
525 law.

526 (b) To the extent the information has not otherwise been provided, upon
527 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
528 report describing the measurement devices or water measuring methods being used or to be used
529 to implement subdivision (a) of this Article of this Contract and identifying the agricultural
530 turnouts and the M&I service connections or alternative measurement programs approved by the
531 Contracting Officer, at which such measurement devices or water measuring methods are being
532 used, and, if applicable, identifying the locations at which such devices and/or methods are not
533 yet being used including a time schedule for implementation at such locations. The Contracting
534 Officer shall advise the Contractor in writing within sixty (60) days as to the adequacy of, and
535 necessary modifications, if any, of the measuring devices or water measuring methods identified
536 in the Contractor's report and if the Contracting Officer does not respond in such time, they shall
537 be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring
538 devices or methods are inadequate, the parties shall within sixty (60) days following the
539 Contracting Officer's response, negotiate in good faith the earliest practicable date by which the
540 Contractor shall modify said measuring devices and/or measuring methods as required by the
541 Contracting Officer to ensure compliance with subdivision (a) of this Article of this Contract.

542 (c) All new surface water delivery systems installed within the Contractor's
543 Service Area after the effective date of this Contract shall also comply with the measurement
544 provisions described in subdivision (a) of this Article of this Contract.

545 (d) The Contractor shall inform the Contracting Officer and the State of
546 California in writing by April 30 of each Year of the monthly volume of surface water delivered
547 within the Contractor's Service Area during the previous Year.

548 (e) The Contractor shall inform the Contracting Officer and the Operating
549 Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity
550 of Irrigation and M&I Water taken during the preceding month.

551 RATES, METHOD OF PAYMENT FOR WATER,
552 AND ACCELERATED REPAYMENT OF FACILITIES

553 7. (a) The Contractor's cost obligations for all Delivered Water shall be
554 determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted
555 in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the
556 SJRRSA, and such ratesetting policies shall be amended, modified, or superseded only through a
557 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated
558 rules and regulations, or policies; and (iii) other applicable provisions of this Contract.

559 (1) The Contractor shall pay the United States as provided for in this
560 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance
561 with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to
562 recover its estimated reimbursable costs included in the O&M component of the Rate and
563 amounts established to recover other charges and deficits, other than the construction costs. The
564 Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the
565 provisions of the SJRRSA.

566 (2) Omitted.

567 (A) Omitted.

568 (B) Project construction costs or other capitalized costs

569 attributable to capital additions to the Project incurred after the effective date of this Contract or

570 that are not reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly

571 assignable to the Contractor, shall be repaid as prescribed by the SJRRSA without interest except

572 as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue

573 on the M&I portion of unpaid Project construction costs or other capitalized cost assigned to the

574 Contractor until such costs are paid. Increases or decreases in Project construction costs or other

575 capitalized costs assigned to the Contractor caused solely by annual adjustment of Project

576 construction costs or other capitalized costs assigned to each Central Valley Project contractor by

577 the Secretary shall not be considered in determining the amounts to be paid pursuant to this

578 subdivision (a)(2)(B), but will be considered under subdivision (b) of this Article. A separate

579 repayment agreement shall be established by the Contractor and the Contracting Officer to

580 accomplish repayment of all additional Project construction costs or other capitalized costs

581 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the

582 following:

583 (1) If the collective annual Project construction costs or

584 other capitalized costs that are incurred after the effective date of this Contract and properly

585 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly

586 assignable to the Contractor shall be repaid in not more than five (5) years after notification of

587 the allocation. This amount is the result of a collective annual allocation of Project construction

588 costs to the contractors exercising contract conversions; Provided, That the reference to the
589 amount of \$5,000,000 shall not be a precedent in any other context.

590 (2) If the collective annual Project construction costs or
591 other capitalized costs that are incurred after the effective date of this Contract and properly
592 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly
593 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law.
594 This amount is the result of a collective annual allocation of Project construction costs to the
595 contractors exercising contract conversions; Provided, That the reference to the amount of
596 \$5,000,000 shall not be a precedent in any other context.

597 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
598 allocation by the Secretary upon completion of the construction of the Central Valley Project, the
599 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any
600 reallocation of Project construction costs or other capitalized costs assigned to the Contractor
601 that may have occurred between the determination of Contractor's Existing Capital Obligation
602 and the final cost allocation. In the event that the final cost allocation, as determined by the
603 Secretary, indicates that the costs properly assignable to the Contractor, as determined by the
604 Contracting Officer, are greater than the Existing Capital Obligation and other amounts of
605 Project construction costs or other capitalized costs paid by the Contractor, then the Contractor
606 shall be obligated to pay the remaining allocated costs. The term of such additional repayment
607 contract shall be no less than one (1) year and no more than ten (10) years, however, mutually
608 agreeable provisions regarding the rate of repayment of such amount may be developed by the

609 parties. In the event that the final cost allocation, as determined by the Secretary, indicates that
610 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are less
611 than the Existing Capital Obligation and other amounts of Project construction costs or other
612 capitalized costs paid by the Contractor, then the Contracting Officer shall credit such
613 overpayment as an offset against any outstanding or future obligation of the Contractor,
614 consistent with the SJRRSA. This Contract shall be implemented in a manner consistent with
615 Section 10010(f) of the SJRRSA.

616 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall
617 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
618 period October 1, of the current Calendar Year, through September 30, of the following Calendar
619 Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2)
620 months to review and comment on such estimates. On or before September 15 of each Calendar
621 Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect
622 during the period October 1 of the current Calendar Year, through September 30 of the following
623 Calendar Year, and such notification shall revise Exhibit "B". Charges shall be subject to
624 reduction consistent with the SJRRSA based upon the average annual delivery amount agreed to
625 by the Contracting Officer and the Contractor.

626 (1) For the years 2020 through 2039 inclusive, Charges shall reflect
627 the reduction on a per acre-foot basis consistent with Section 10010(d)(1) of the SJRRSA.
628 Exhibit "D" sets forth the reduction in Charges to offset the Financing Costs as prescribed in
629 Section 10010(d)(1) of the SJRRSA; Provided, That if the Secretary determines such Charges are

630 otherwise needed, an equivalent reduction will be made to O&M costs consistent with such
631 provisions of the SJRRSA. Consistent with Section 10010(d)(1) of the SJRRSA and as shown in
632 Exhibit "D", the Friant Surcharge reduction has been calculated based upon the anticipated
633 average annual water deliveries, for the purpose of this reduction only, mutually agreed upon by
634 the Secretary and the Contractor for the period from January 1, 2020 through December 31,
635 2039. The Friant Surcharge reduction shall remain fixed and shall only be applied to Water
636 Delivered pursuant to this Contract to which the Friant Surcharge applies (including but not
637 limited to water transferred, banked, or exchanged), commencing on January 1, 2020 until such
638 volume of Water Delivered equals 1,552,690 acre-feet or December 31, 2039, whichever occurs
639 first.

640 (2) Further, to fully offset the Financing Costs, Contractor shall be
641 entitled to a reduction in other outstanding or future obligations of the Contractor in accordance
642 with Section 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding
643 or future obligations of the Contractor after October 1, 2019 has been computed by the
644 Contracting Officer, and as computed, such amount is set forth in Exhibit "D".

645 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall
646 make available to the Contractor an estimate of the Rates for Project Water for the following
647 Year and the computations and cost allocations upon which those Rates are based. The
648 Contractor shall be allowed not less than two (2) months to review and comment on such
649 computations and cost allocations. By December 31 of each Calendar Year, the Contracting
650 Officer shall provide the Contractor with the final Rates to be in effect for the upcoming Year,

651 and such notification shall revise Exhibit "B". The O&M component of the Rate may be
652 reduced as provided in the SJRRSA.

653 (e) At the time the Contractor submits the initial schedule for the delivery of
654 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
655 Contractor shall make an advance payment to the United States equal to the total amount payable
656 pursuant to the applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the
657 Project Water scheduled to be delivered pursuant to this Contract during the first two (2)
658 calendar months of the Year. Before the end of the first month and before the end of each
659 calendar month thereafter, the Contractor shall make an advance payment to the United States, at
660 the Rate(s) set under subdivision (a) of this Article of this Contract, for the Water Scheduled to
661 be delivered pursuant to this Contract during the second month immediately following.

662 Adjustments between advance payments for Water Scheduled and payments at Rates due for
663 Water Delivered shall be made before the end of the following month; Provided, That any
664 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which
665 increases the amount of Water Delivered pursuant to this Contract during any month shall be
666 accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project
667 Water is not delivered to the Contractor in advance of such payment. In any month in which the
668 quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of
669 Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered
670 to the Contractor unless and until an advance payment at the Rates then in effect for such
671 additional Project Water is made. Final adjustment between the advance payments for the Water

672 Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this
673 Contract shall be made as soon as practicable but no later than April 30th of the following Year,
674 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article
675 3 of this Contract if such water is not delivered by the last day of February.

676 (f) The Contractor shall also make a payment in addition to the Rate(s) in
677 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
678 Charges then in effect, before the end of the month following the month of delivery. The
679 payments shall be consistent with the quantities of Irrigation Water and M&I Water Delivered as
680 shown in the water delivery report for the subject month prepared by the Contracting Officer.
681 Such water delivery report shall be the basis for payment of Charges by the Contractor, and shall
682 be provided to the Contractor by the Contracting Officer (as applicable) within five (5) days after
683 the end of the month of delivery. The water delivery report shall be deemed a bill basis for
684 payment of Charges for Water Delivered. Adjustment for overpayment or underpayment of
685 Charges shall be made through the adjustment of payments due to the United States for Charges
686 for the next month. Any amount to be paid for past due payment of Charges shall be computed
687 pursuant to Article 21 of this Contract.

688 (g) The Contractor shall pay for any Water Delivered under subdivision (d),
689 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to
690 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting
691 policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this

692 Contract shall be no more than the otherwise applicable Rate for Irrigation Water or M&I Water
693 under subdivision (a) of this Article of this Contract.

694 (h) Payments to be made by the Contractor to the United States under this
695 Contract may be paid from any revenues available to the Contractor.

696 (i) All revenues received by the United States from the Contractor relating to
697 the delivery of Project Water or the delivery of non-project water through Project facilities shall
698 be allocated and applied in accordance with Federal Reclamation law and the associated rules or
699 regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and
700 consistent with the SJRRSA.

701 (j) The Contracting Officer shall keep its accounts, pertaining to the
702 administration of the financial terms and conditions of its long-term contracts, in accordance
703 with applicable Federal standards so as to reflect the application of Project costs and revenues.
704 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
705 Contractor a detailed accounting of all Project and Contractor expense allocations, the
706 disposition of all Project and Contractor revenues, and a summary of all water delivery
707 information. The Contracting Officer and the Contractor shall enter into good faith negotiations
708 to resolve any discrepancies or disputes relating to accountings, reports, or information.

709 (k) The parties acknowledge and agree that the efficient administration of this
710 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
711 policies, and procedures used for establishing Rates, Charges, and/or for making and allocating
712 payments, other than those set forth in this Article of this Contract, may be in the mutual best

713 interest of the parties, it is expressly agreed that the parties may enter into agreements to modify
714 the mechanisms, policies, and procedures for any of those purposes while this Contract is in
715 effect without amending this Contract.

716 (l) (1) Omitted.

717 (2) Omitted.

718 (3) Omitted.

719 (m) Rates under the respective ratesetting policies will be established to
720 recover only reimbursable O&M (including any deficits) costs of the Project, as those terms are
721 used in the then-existing Project ratesetting policies, and consistent with the SJRRSA, and
722 interest, where appropriate, except in instances where a minimum Rate is applicable in
723 accordance with the relevant Project ratesetting policy. Changes of significance in practices
724 which implement the Contracting Officer's ratesetting policies will not be implemented until the
725 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
726 impact of the proposed change.

727 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
728 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
729 adjusted upward or downward to reflect the changed costs of delivery (if any) incurred by the
730 Contracting Officer in the delivery of the transferred Project Water to the transferee's point of
731 delivery in accordance with the then-existing Central Valley Project Ratesetting Policy.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore shall have no further liability.

RECOVERED WATER ACCOUNT

9. (a) Notwithstanding any other provisions of this Contract, water delivered to the Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of \$10.00 per acre foot. Recovered Water Account water provided to the Contractor shall be administered at a priority for delivery lower than Class 2 Water and higher than Section 215 Water.

(b) The manner in which the Recovered Water Account will be administered will be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and Paragraph 16 of the Settlement.

SALES, TRANSFERS, AND EXCHANGES OF WATER

10. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. Furthermore, The Contractor may continue to exchange Project Water for water from the Cross Valley Division contractors in the manner historically carried out with the approval of the Contracting Officer under Contract No.

753 14-06-200-229A. No sale, transfer, or exchange of Project Water under this Contract may take
754 place without the prior written approval of the Contracting Officer, except as provided for in
755 subdivisions (b) and (c) of this Article of this Contract. No such Project Water sales, transfers,
756 or exchanges shall be approved, where approval is required, absent compliance with appropriate
757 environmental documentation including but not limited to the National Environmental Policy
758 Act and the Endangered Species Act. Such environmental documentation must include, as
759 appropriate, an analysis of groundwater impacts and economic and social effects, including
760 environmental justice, of the proposed Project Water sales, transfers and exchanges on both the
761 transferor/exchanger and transferee/exchange recipient.

762 (b) In order to facilitate efficient water management by means of Project
763 Water sales, transfers, or exchanges of the type historically carried out among Project
764 Contractors located within the same geographical area and to allow the Contractor to participate
765 in an accelerated water transfer program, the Contracting Officer has prepared, as appropriate,
766 necessary environmental documentation including, but not limited to, the National
767 Environmental Policy Act and the Endangered Species Act analyzing annual Project Water sales,
768 transfers, or exchanges among Contractors within the same geographical area and the
769 Contracting Officer has determined that such Project Water sales, transfers, and exchanges
770 comply with applicable law.

771 (c) Project Water sales, transfers, and exchanges analyzed in the
772 environmental documentation referenced in subdivision (b) of this Article of this Contract, shall
773 be conducted with advance notice to the Contracting Officer and the Contracting Officer's

774 written acknowledgement of the transaction, but shall not require prior written approval by the
775 Contracting Officer.

776 (d) For Project Water sales, transfers, or exchanges to qualify under
777 subdivision (b) of this Article of this Contract such Project Water sale, transfer, or exchange
778 must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for
779 M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface
780 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to
781 established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur within a single
782 Year; (iii) occur between a willing seller and a willing buyer or willing exchangers; (iv) convey
783 water through existing facilities with no new construction or modifications to facilities and be
784 between existing Project Contractors and/or the Contractor and the United States, Department of
785 the Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and
786 requirements imposed for protection of the environment and Indian Trust Assets, as defined
787 under Federal law.

788 (e) The environmental documentation and the Contracting Officer's
789 compliance determination for transactions described in subdivision (b) of this Article of this
790 Contract shall be reviewed every five (5) years and updated, as necessary, prior to the expiration
791 of the then-existing five (5) year period. All subsequent environmental documentation shall
792 include an alternative to evaluate not less than the quantity of Project Water historically sold,
793 transferred, or exchanged within the same geographical area.

794 (f) Consistent with Section 10010(e)(l) of the SJRRSA, any agreement
795 providing for sale, transfer, or exchange of Project Water that is not used for interim flows or
796 restoration flows pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy
797 the requirements of CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or
798 exchanges comply with sub-division (f)(1) and (f)(2) below.

799 (1) Project Water sales, transfers, and exchanges conducted under the
800 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting
801 Officer's concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the
802 Contractor shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1)
803 year, provide ninety (90) days written advance notification to the Contracting Officer and
804 similarly thirty (30) days written advance notification of any Project Water sale, transfer, or
805 exchange with a term of less than one (1) year. The Contracting Officer shall promptly make
806 such notice publicly available.

807 (2) The Contractor's thirty (30) days or ninety (90) days advance
808 written notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain
809 how the proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or
810 mitigate impacts to Project Water deliveries caused by interim or restoration flows or is
811 otherwise intended to facilitate the Water Management Goal as described in the SJRRSA. The
812 Contracting Officer shall promptly make such notice publicly available.

813 (3) In addition, the Contracting Officer shall, at least annually, make
814 available publicly a compilation of the number of Project Water sales, transfers, and exchange

815 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
816 Contract.

817 (4) Project Water sold, transferred, or exchanged under an agreement
818 that meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be
819 counted as a replacement or an offset for purposes of determining reductions to Project Water
820 deliveries to any Friant Division Project Contractor except as provided in Paragraph 16(b) of the
821 Settlement.

822 (g) Notwithstanding any Additional Capital Obligation that may later be
823 established, in the case of a sale or transfer of Irrigation Water to another contractor which is
824 otherwise subject to the acreage limitations, reporting, and Full Cost pricing provisions of the
825 Reclamation Reform Act of 1982, as amended, hereinafter referred to as the RRA, such sold or
826 transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of
827 a sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to
828 RRA provisions, such RRA provisions shall apply to delivery of such water.

829 APPLICATION OF PAYMENTS AND ADJUSTMENTS

830 11. (a) The amount of any overpayment by the Contractor of the Contractor's
831 O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current
832 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
833 more than One Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu
834 of a refund, any amount of such overpayment, at the option of the Contractor, may be credited
835 against amounts to become due to the United States by the Contractor. With respect to

836 overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or
837 anyone having or claiming to have the right to the use of any of the Project Water supply
838 provided for herein. All credits and refunds of overpayments shall be made within thirty (30)
839 days of the Contracting Officer obtaining direction as to how to credit or refund such
840 overpayment in response to the notice to the Contractor that it has finalized the accounts for the
841 Year in which the overpayment was made.

842 (b) All advances for miscellaneous costs incurred for work requested by the
843 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs
844 when the work has been completed. If the advances exceed the actual costs incurred, the
845 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
846 advances, the Contractor will be billed for the additional costs pursuant to Article 26 of this
847 Contract.

848 TEMPORARY REDUCTIONS—RETURN FLOWS

849 12. (a) The Contracting Officer shall make all reasonable efforts to optimize
850 delivery of the Contract Total subject to: (i) the authorized purposes and priorities of the Project;
851 (ii) the requirements of Federal law and the Settlement; and (iii) the obligations of the United
852 States under existing contracts, or renewals thereof, providing for water deliveries from the
853 Project.

854 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
855 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for
856 the purposes of investigation, inspection, maintenance, repair, or replacement of any of the

857 Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor,
858 but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the
859 Contractor due notice in advance of such temporary discontinuance or reduction, except in case
860 of emergency, in which case no notice need be given; Provided, That the United States shall use
861 its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of
862 service after such reduction or discontinuance, and if requested by the Contractor, the United
863 States will, if possible, deliver the quantity of Project Water which would have been delivered
864 hereunder in the absence of such discontinuance or reduction.

865 (c) The United States reserves the right to all seepage and return flow water
866 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
867 beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for
868 the United States any right as seepage or return flow to water being used pursuant to this
869 Contract for surface irrigation or underground storage either being put to reasonable and
870 beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or
871 those claiming by, through, or under the Contractor. For purposes of this subdivision,
872 groundwater recharge, groundwater banking and all similar groundwater activities will be
873 deemed to be underground storage.

874 CONSTRAINTS ON THE AVAILABILITY OF WATER

875 13. (a) In its operation of the Project, the Contracting Officer will use all
876 reasonable means to guard against a Condition of Shortage in the quantity of water to be made
877 available to the Contractor pursuant to this Contract. In the event the Contracting Officer

878 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
879 Contractor of said determination as soon as practicable.

880 (b) If there is a Condition of Shortage because of errors in physical operations
881 of the Project, drought, other physical causes beyond the control of the Contracting Officer or
882 actions taken by the Contracting Officer to meet legal obligations, including but not limited to
883 obligations pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of
884 this Contract, no liability shall accrue against the United States or any of its officers, agents, or
885 employees for any damage, direct or indirect, arising therefrom.

886 (c) The United States shall not execute contracts which together with this
887 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000
888 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That,
889 subject to subdivision (I) of Article 3 of this Contract, the limitation placed on Class 2 Water
890 contracts shall not prohibit the United States from entering into temporary contracts of one year
891 or less in duration for delivery of Project Water to other entities if such water is not necessary to
892 meet the schedules as may be submitted by all Friant Division Project Contractors entitled to
893 receive Class 1 Water and/or Class 2 Water under their contracts. Nothing in this subdivision
894 shall limit the Contracting Officer's ability to take actions that result in the availability of new
895 water supplies to be used for Project purposes and allocating such new supplies; Provided, That
896 the Contracting Officer shall not take such actions until after consultation with the Friant
897 Division Project Contractors.

898 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to
899 this or any other contract heretofore or hereafter entered into any Year unless and until the
900 Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in
901 subdivision (c) of this Article of this Contract will be available for delivery in said Year. If the
902 Contracting Officer determines there is or will be a shortage in any Year in the quantity of
903 Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1
904 Water among all Contractors entitled to receive such water that will be made available at Friant
905 Dam in accordance with the following:

906 (1) A determination shall be made of the total quantity of Class 1
907 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the
908 amount so determined being herein referred to as the available supply.

909 (2) The total available Class 1 supply shall be divided by the Class 1
910 Water contractual commitments, the quotient thus obtained being herein referred to as the
911 Class 1 apportionment coefficient.

912 (3) The total quantity of Class 1 Water under Article 3 of this Contract
913 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of
914 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the
915 respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water
916 specified in subdivision (a) of Article 3 of this Contract.

917 (e) If the Contracting Officer determines there is less than the quantity of
918 Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3

919 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the
920 Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of
921 subdivision (d) of this Article of this Contract substituting the term "Class 2" for the term "Class
922 1."

923 (f) In the event that in any Year there is made available to the Contractor, by
924 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article
925 of this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of
926 Article 12 of this Contract, less than the quantity of water which the Contractor otherwise would
927 be entitled to receive hereunder, there shall be made an adjustment on account of the amounts
928 already paid to the Contracting Officer by the Contractor for Class 1 Water and Class 2 Water
929 for said Year in accordance with Article 11 of this Contract.

930 UNAVOIDABLE GROUNDWATER PERCOLATION

931 14. Omitted.

932 ACREAGE LIMITATION

933 15. (a) The Contractor has paid the Repayment Obligation, and notwithstanding
934 any Additional Capital Obligation that may later be established, the provisions of section 213(a)
935 and (b) of the RRA shall apply to lands in the Contractor's Service Area, with the effect that
936 acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer apply
937 to lands in the Contractor's Service Area with respect to Water Delivered pursuant to this
938 Contract. Reclamation will conduct a final water district review for the purpose of determining
939 compliance with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA

940 from the date of the last water district review until the date when payment to Reclamation of the
941 Repayment Obligation was completed.

942 (b) Project Water to which the Contractor is entitled through a separate
943 contract, other than this Contract, that is subject to Federal Reclamation law, may be delivered to
944 lands within the Contractor's Service Area. Notwithstanding any Additional Capital Obligation
945 that may later be established, Project Water Delivered under this Contract may be mixed with
946 Project Water Delivered pursuant to a contract with the United States, other than this Contract, to
947 which acreage limitations, reporting, and the Full Cost pricing provisions of Federal Reclamation
948 law apply without causing the application of the acreage limitations, reporting, and the Full Cost
949 pricing provisions of Federal Reclamation law to the Water Delivered pursuant to this Contract;
950 Provided, The terms and conditions in such other contract shall continue to apply, and if such
951 terms and conditions so require, the lands to receive Project Water under such other contract
952 shall be properly designated by the Contractor and such Project Water is to be delivered in
953 accordance with the RRA including any applicable acreage limitations, reporting, and Full Cost
954 pricing provisions.

955 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

956 16. (a) The parties agree that the delivery of water or the use of Federal facilities
957 pursuant to this Contract is subject to Federal Reclamation law, as amended and supplemented,
958 and the rules and regulations promulgated by the Secretary of the Interior under Federal
959 Reclamation law.

960 (b) The terms of this Contract are subject to the Settlement and the SJRRSA.
961 Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of
962 the Settlement and the SJRRSA.

963

PROTECTION OF WATER AND AIR QUALITY

964 17. (a) Project facilities used to make available and deliver water to the
965 Contractor shall be operated and maintained in the most practical manner to maintain the quality
966 of the water at the highest level possible as determined by the Contracting Officer: *Provided,*
967 *That* the United States does not warrant the quality of the water delivered to the Contractor and is
968 under no obligation to furnish or construct water treatment facilities to maintain or improve the
969 quality of water delivered to the Contractor.

970 (b) The Contractor shall comply with all applicable water and air pollution
971 laws and regulations of the United States and the State of California; and shall obtain all required
972 permits or licenses from the appropriate Federal, State, or local authorities necessary for the
973 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,
974 State, and local water quality standards applicable to surface and subsurface drainage and/or
975 discharges generated through the use of Federal or Contractor facilities or project water provided
976 by the Contractor within the Contractor's Project Water Service Area.

977 (c) This article shall not affect or alter any legal obligations of the Secretary
978 to provide drainage or other discharge services.

979 WATER ACQUIRED BY THE CONTRACTOR
980 OTHER THAN FROM THE UNITED STATES

981 18. (a) Omitted.

982 (b) Notwithstanding any Additional Capital Obligation that may later be
983 established, water or water rights now owned or hereafter acquired by the Contractor other than
984 from the United States pursuant to this Contract and Irrigation Water furnished pursuant to the
985 terms of this Contract may be simultaneously transported through the same distribution facilities
986 of the Contractor without the payment of fees to the United States and without application of
987 Federal Reclamation law to Water Delivered pursuant to this Contract or to lands which receive
988 Water Delivered to Contractor pursuant to this Contract.

989 (c) Water or water rights now owned or hereafter acquired by the Contractor,
990 other than from the United States or adverse to the Project or its contractors (i.e., non-project

991 water), may be stored, conveyed and/or diverted through Project facilities, other than Friant
992 Division Facilities, subject to the completion of appropriate environmental documentation, with
993 the approval of the Contracting Officer and the execution of any contract determined by the
994 Contracting Officer to be necessary, consistent with the following provisions:

995 (1) The Contractor may introduce non-project water into Project
996 facilities and deliver said water to lands within the Contractor's Service Area subject to payment
997 to the United States and/or to any applicable Operating Non-Federal Entity of an appropriate rate
998 as determined by the Contracting Officer. In addition, if electrical power is required to pump
999 non-project water, the Contractor shall be responsible for obtaining the necessary power and
1000 paying the necessary charges therefor.

1001 (2) Delivery of such non-project water in and through Project facilities
1002 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
1003 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
1004 available to other Project Contractors; (iii) interfere with the delivery of contractual water
1005 entitlements to any other Project Contractors; (iv) interfere with the physical maintenance of the
1006 Project facilities; or (v) result in the United States incurring any liability or unreimbursed costs
1007 or expenses thereby.

1008 (3) Neither the United States nor the Operating Non-Federal Entity
1009 shall be responsible for control, care or distribution of the non-project water before it is
1010 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases
1011 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and

1012 their respective officers, agents, and employees, from any claim for damage to persons or
1013 property, direct or indirect, resulting from Contractor's diversion or extraction of non-project
1014 water from any source.

1015 (4) Diversion of such non-project water into Project facilities shall be
1016 consistent with all applicable laws, and if involving groundwater, consistent with any
1017 groundwater management plan for the area from which it was extracted.

1018 (5) After Project purposes are met, as determined by the Contracting
1019 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
1020 of the facilities declared to be available by the Contracting Officer for conveyance and
1021 transportation of non-project water prior to any such remaining capacity being made available to
1022 non-project contractors.

1023 (d) Non-project water may be stored, conveyed and/or diverted through Friant
1024 Division Facilities, subject to the prior completion of appropriate environmental documentation
1025 and approval of the Contracting Officer without execution of a separate contract, consistent with
1026 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be
1027 appropriate by the Contracting Officer.

1028 OPINIONS AND DETERMINATIONS

1029 19. (a) Where the terms of this Contract provide for actions to be based upon the
1030 opinion or determination of either party to this Contract, said terms shall not be construed as
1031 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
1032 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly

1033 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
1034 or unreasonable opinion or determination. Each opinion or determination by either party shall be
1035 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect
1036 or alter the standard of judicial review applicable under Federal law to any opinion or
1037 determination implementing a specific provision of Federal law embodied in statute or
1038 regulation.

1039 (b) The Contracting Officer shall have the right to make determinations
1040 necessary to administer this Contract that are consistent with the provisions of this Contract, the
1041 laws of the United States and the State of California, and the rules and regulations promulgated
1042 by the Secretary. Such determinations shall be made in consultation with the Contractor to the
1043 extent reasonably practicable.

1044 COORDINATION AND COOPERATION

1045 20. (a) In order to further their mutual goals and objectives, the Contracting
1046 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
1047 with other affected Project Contractors, in order to improve the operation and management of the
1048 Project. The communication, coordination, and cooperation regarding operations and
1049 management shall include, but not limited to, any action which will or may materially affect the
1050 quantity or quality of Project Water supply, the allocation of Project Water supply, and Project
1051 financial matters including, but not limited to, budget issues. The communication, coordination,
1052 and cooperation provided for hereunder shall extend to all provisions of this Contract. Each

1053 party shall retain exclusive decision making authority for all actions, opinions, and
1054 determinations to be made by the respective party.

1055 (b) It is the intent of the Secretary to improve water supply reliability. To
1056 carry out this intent:

1057 (1) The Contracting Officer will, at the request of the Contractor,
1058 assist in the development of integrated resource management plans for the Contractor. Further,
1059 the Contracting Officer will, as appropriate, seek authorizations for implementation of
1060 partnerships to improve water supply, water quality, and reliability.

1061 (2) The Secretary will, as appropriate, pursue program and project
1062 implementation and authorization in coordination with Project Contractors to improve the water
1063 supply, water quality, and reliability of the Project for all Project purposes.

1064 (3) The Secretary will coordinate with Project Contractors and the
1065 State of California to seek improved water resource management.

1066 (4) The Secretary will coordinate actions of agencies within the
1067 Department of the Interior that may impact the availability of water for Project purposes.

1068 (5) The Contracting Officer shall periodically, but not less than
1069 annually, hold division level meetings to discuss Project operations, division level water
1070 management activities, and other issues as appropriate.

1071 (c) Without limiting the contractual obligations of the Contracting Officer
1072 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting
1073 Officer's ability to communicate, coordinate, and cooperate with the Contractor or other

1074 interested stakeholders or to make decisions in a timely fashion as needed to protect health,
1075 safety, physical integrity of structures or facilities, or the Contracting Officer's ability to comply
1076 with applicable laws.

1077 **CHARGES FOR DELINQUENT PAYMENTS**

1078 21. (a) The Contractor shall be subject to interest, administrative and penalty
1079 charges on delinquent installments or payments. When a payment is not received by the due
1080 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
1081 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
1082 administrative charge to cover additional costs of billing and processing the delinquent payment.
1083 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
1084 penalty charge of six (6) percent per year for each day the payment is delinquent beyond the due
1085 date. Further, the Contractor shall pay any fees incurred for debt collection services associated
1086 with a delinquent payment.

1087 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
1088 in the Federal Register by the Department of the Treasury for application to overdue payments,
1089 or the interest rate of one-half of one (0.5) percent per month prescribed by Section 6 of the
1090 Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be
1091 determined as of the due date and remain fixed for the duration of the delinquent period.

1092 (c) When a partial payment on a delinquent account is received, the amount
1093 received shall be applied, first to the penalty, second to the administrative charges, third to the
1094 accrued interest, and finally to the overdue payment.

1095 **EQUAL EMPLOYMENT OPPORTUNITY**

1096 22. During the performance of this Contract, the Contractor agrees as follows:

1097 (a) The Contractor will not discriminate against any employee or applicant for
1098 employment because of race, color, religion, sex, disability, or national origin. The Contractor
1099 will take affirmative action to ensure that applicants are employed, and that employees are
1100 treated during employment, without regard to their race, color, religion, sex, disability, or
1101 national origin. Such action shall include, but not be limited to the following: employment,
1102 upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination;
1103 rates of pay or other forms of compensation; and selection for training, including apprenticeship.
1104 The Contractor agrees to post in conspicuous places, available to employees and applicants for
1105 employment, notices to be provided by the Contracting Officer setting forth the provisions of this
1106 nondiscrimination clause.

1107 (b) The Contractor will, in all solicitations or advertisements for employees
1108 placed by or on behalf of the Contractor, state that all qualified applicants will receive
1109 consideration for employment without regard to race, color, religion, sex, disability, or national
1110 origin.

1111 (c) The Contractor will send to each labor union or representative of workers
1112 with which it has a collective bargaining agreement or other contract or understanding, a notice,
1113 to be provided by the Contracting Officer, advising the labor union or workers' representative of
1114 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,
1115 1965, and shall post copies of the notice in conspicuous places available to employees and
1116 applicants for employment.

1117 (d) The Contractor will comply with all provisions of Executive Order No.
1118 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary
1119 of Labor.

1120 (e) The Contractor will furnish all information and reports required by
1121 Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the
1122 Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and
1123 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to
1124 ascertain compliance with such rules, regulations, and orders.

1125 (f) In the event of the Contractor's noncompliance with the nondiscrimination
1126 clauses of this contract or with any of such rules, regulations, or orders, this contract may be
1127 canceled, terminated or suspended in whole or in part and the Contractor may be declared
1128 ineligible for further Government contracts in accordance with procedures authorized in
1129 Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and
1130 remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule,
1131 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1132 (g) The Contractor will include the provisions of paragraphs (1) through (7) in
1133 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1134 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24,
1135 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor
1136 will take such action with respect to any subcontract or purchase order as may be directed by the
1137 Secretary of Labor as a means of enforcing such provisions, including sanctions for
1138 noncompliance: *Provided, however,* that in the event the Contractor becomes involved in, or is
1139 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
1140 Contractor may request the United States to enter into such litigation to protect the interests of
1141 the United States.

1142 GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

1143 23. (a) The obligation of the Contractor to pay the United States as provided in
1144 this Contract is a general obligation of the Contractor notwithstanding the manner in which the
1145 obligation may be distributed among the Contractor's water users and notwithstanding the
1146 default of individual water users in their obligations to the Contractor.

1147 (b) The payment of charges becoming due hereunder is a condition precedent
1148 to receiving benefits under this Contract. The United States shall not make water available to the
1149 Contractor through Project facilities during any period in which the Contractor may be in arrears
1150 in the advance payment of water rates due the United States. The Contractor shall not furnish
1151 water made available pursuant to this Contract for lands or parties which are in arrears in the
1152 advance payment of water rates levied or established by the Contractor.

1153 (c) With respect to subdivision (b) of this Article of this Contract, the
1154 Contractor shall have no obligation to require advance payment for water rates which it levies.

1155 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1156 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1157 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
1158 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
1159 laws, as well as with their respective implementing regulations and guidelines imposed by the
1160 U.S. Department of the Interior and/or Bureau of Reclamation.

1161 (b) These statutes require that no person in the United States shall, on the
1162 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
1163 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
1164 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
1165 Contractor agrees to immediately take any measures necessary to implement this obligation,
1166 including permitting officials of the United States to inspect premises, programs, and documents.

1167 (c) The Contractor makes this agreement in consideration of and for the
1168 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1169 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1170 Reclamation, including installment payments after such date on account of arrangements for
1171 Federal financial assistance which were approved before such date. The Contractor recognizes
1172 and agrees that such Federal assistance will be extended in reliance on the representations and
1173 agreements made in this Article, and that the United States reserves the right to seek judicial
1174 enforcement thereof.

1175

PRIVACY ACT COMPLIANCE

1176

25. Omitted.

1177

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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26. In addition to all other payments to be made by the Contractor pursuant to this

1179

Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a

1180

bill and detailed statement submitted by the Contracting Officer to the Contractor for such

1181

specific items of direct cost incurred by the United States for work requested by the Contractor

1182

associated with this Contract plus indirect costs in accordance with applicable Bureau of

1183

Reclamation policies and procedures. All such amounts referred to in this Article of this

1184

Contract shall not exceed the amount agreed to in writing in advance by the Contractor. This

1185

Article of this Contract shall not apply to costs for routine contract administration.

1186

WATER CONSERVATION

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27. (a) Prior to the delivery of water provided from or conveyed through

1188

Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor

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shall be implementing an effective water conservation and efficiency program based on the

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Contractor's water conservation plan that has been determined by the Contracting Officer to

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meet the conservation and efficiency criteria for evaluating water conservation plans established

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under Federal law. The water conservation and efficiency program shall contain definite water

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conservation objectives, appropriate economically feasible water conservation measures, and

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time schedules for meeting those objectives. Continued Project Water delivery pursuant to this

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Contract shall be contingent upon the Contractor's continued implementation of such water

1196 conservation program. In the event the Contractor's water conservation plan or any revised
1197 water conservation plan completed pursuant to subdivision (d) of this Article of this Contract
1198 have not yet been determined by the Contracting Officer to meet such criteria, due to
1199 circumstances which the Contracting Officer determines are beyond the control of the
1200 Contractor, water deliveries shall be made under this Contract so long as the Contractor
1201 diligently works with the Contracting Officer to obtain such determination at the earliest
1202 practicable date, and thereafter the Contractor immediately begins implementing its water
1203 conservation and efficiency program in accordance with the time schedules therein.

1204 (b) Should the amount of M&I Water Delivered pursuant to subdivision (a) of
1205 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the
1206 Contractor shall implement the Best Management Practices identified by the time frames issued
1207 by the California Urban Water Conservation Council for such M&I Water unless any such
1208 practice is determined by the Contracting Officer to be inappropriate for the Contractor.

1209 (c) The Contractor shall submit to the Contracting Officer a report on the
1210 status of its implementation of the water conservation plan on the reporting dates specified in the
1211 then-existing conservation and efficiency criteria established under Federal law.

1212 (d) At five (5) -year intervals, the Contractor shall revise its water
1213 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating
1214 water conservation plans established under Federal law and submit such revised water
1215 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
1216 will then determine if the water conservation plan meets Reclamation's then-existing

1217 conservation and efficiency criteria for evaluating water conservation plans established under
1218 Federal law.

1219 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1220 shall be described in the Contractor's water conservation plan.

1221 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1222 28. Except as specifically provided in Article 18 of this Contract, the provisions of
1223 this Contract shall not be applicable to or affect non-project water or water rights now owned or
1224 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1225 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1226 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or
1227 any water user within the Contractor's Service Area acquires or has available under any other
1228 contract pursuant to Federal Reclamation law.

1229 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1230 29. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1231 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1232 Operating Non-Federal Entity by separate agreement between the United States and the
1233 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the
1234 rights or obligations of the Contractor or the United States hereunder.

1235 (b) The Contracting Officer has previously notified the Contractor in writing
1236 that the O&M of a portion of the Project facilities which serve the Contractor has been
1237 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly

1238 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer
1239 under the terms and conditions of the separate agreement between the United States and the
1240 Operating Non-Federal Entity described in subdivision (a) of this Article of this Contract, all
1241 rates, charges or assessments of any kind, including any assessment for reserve funds, which the
1242 Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the O&M
1243 of the portion of the Project facilities operated and maintained by the Operating Non-Federal
1244 Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and
1245 replacement costs for physical works and appurtenances associated with the Tracy Pumping
1246 Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the
1247 O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance
1248 and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity
1249 or such successor shall not relieve the Contractor of its obligation to pay directly to the United
1250 States the Contractor's share of the Project Rates and Charges, except to the extent the Operating
1251 Non-Federal Entity collects payments on behalf of the United States in accordance with the
1252 separate agreement identified in subdivision (a) of this Article of this Contract.

1253 (c) For so long as the O&M of any portion of the Project facilities serving the
1254 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1255 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1256 Contract representing the cost associated with the activity being performed by the Operating
1257 Non-Federal Entity or its successor.

1258 (d) In the event the O&M of the Project facilities operated and maintained by
1259 the Operating Non-Federal Entity is re-assumed by the United States during the term of this
1260 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the
1261 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1262 Contractor for Project Water under this Contract representing the O&M costs of the portion of
1263 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the
1264 absence of written notification from the Contracting Officer to the contrary, pay the Rates and
1265 Charges specified in the revised Exhibit "B" directly to the United States in compliance with
1266 Article 7 of this Contract.

1267 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1268 30. The expenditure or advance of any money or the performance of any obligation of
1269 the United States under this Contract shall be contingent upon appropriation or allotment of
1270 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1271 obligations under this Contract. No liability shall accrue to the United States in case funds are
1272 not appropriated or allotted.

1273 BOOKS, RECORDS, AND REPORTS

1274 31. (a) The Contractor shall establish and maintain accounts and other books and
1275 records pertaining to administration of the terms and conditions of this Contract, including: the
1276 Contractor's financial transactions, water supply data, and Project land and right-of-way
1277 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1278 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1279 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1280 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1281 Contract shall have the right during office hours to examine and make copies of the other party's
1282 books and records relating to matters covered by this Contract.

1283 (b) Notwithstanding the provisions of subdivision (a) of this Article of this
1284 Contract, no books, records, or other information shall be requested from the Contractor by the

1285 Contracting Officer unless such books, records, or information are reasonably related to the
1286 administration or performance of this Contract. Any such request shall allow the Contractor a
1287 reasonable period of time within which to provide the requested books, records, or information.

1288 (c) At such time as the Contractor provides information to the Contracting
1289 Officer pursuant to subdivision (a) of this Article of this Contract, a copy of such information
1290 shall be provided to the Operating Non-Federal Entity.

1291 ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

1292 32. (a) The provisions of this Contract shall apply to and bind the successors and
1293 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1294 therein shall be valid until approved in writing by the Contracting Officer.

1295 (b) The assignment of any right or interest in this Contract by either party
1296 shall not interfere with the rights or obligations of the other party to this Contract absent the
1297 written concurrence of said other party.

1298 (c) The Contracting Officer shall not unreasonably condition or withhold
1299 approval of any proposed assignment.

1300 SEVERABILITY

1301 33. In the event that a person or entity who is neither (i) a party to a Project contract,
1302 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor
1303 (iii) an association or other form of organization whose primary function is to represent parties to
1304 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1305 enforceability of a provision included in this Contract and said person, entity, association, or
1306 organization obtains a final court decision holding that such provision is legally invalid or

1307 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1308 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of
1309 such final court decision identify by mutual agreement the provisions in this Contract which
1310 must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate
1311 revision(s). The time periods specified above may be extended by mutual agreement of the
1312 parties. Pending the completion of the actions designated above, to the extent it can do so
1313 without violating any applicable provisions of law, the United States shall continue to make the
1314 quantities of Project Water specified in this Contract available to the Contractor pursuant to the
1315 provisions of this Contract which were not found to be legally invalid or unenforceable in the
1316 final court decision.

1317 RESOLUTION OF DISPUTES

1318 34. Should any dispute arise concerning any provisions of this Contract, or the
1319 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1320 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1321 Officer referring any matter to Department of Justice, the party shall provide to the other party
1322 thirty (30) days written notice of the intent to take such action; Provided, That such notice shall
1323 not be required where a delay in commencing an action would prejudice the interests of the party
1324 that intends to file suit. During the thirty (30) day notice period, the Contractor and the
1325 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as
1326 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the
1327 Contractor or the United States may have.

1328

OFFICIALS NOT TO BENEFIT

1329 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1330 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1331 manner as other water users or landowners.

1332

CHANGES IN CONTRACTOR'S SERVICE AREA

1333 36. (a) While this Contract is in effect, no change may be made in the
1334 Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution,
1335 consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

1336 (b) Within thirty (30) days of receipt of a request for such a change, the
1337 Contracting Officer will notify the Contractor of any additional information required by the
1338 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1339 agreeable schedule for timely completion of the process. Such process will analyze whether the
1340 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1341 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1342 Contract or to pay for any Federally-constructed facilities for which the Contractor is
1343 responsible; and (iii) have an impact on any Project Water rights applications, permits, or
1344 licenses. In addition, the Contracting Officer shall comply with the National Environmental
1345 Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs
1346 incurred by the Contracting Officer in this process, and such costs will be paid in accordance
1347 with Article 26 of this Contract.

1348

FEDERAL LAWS

1349 37. By entering into this Contract, the Contractor does not waive its rights to contest
1350 the validity or application in connection with the performance of the terms and conditions of this

1351 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1352 the terms and conditions of this Contract unless and until relief from application of such Federal
1353 law or regulation to the implementing provision of the Contract is granted by a court of
1354 competent jurisdiction.

1355 EMERGENCY RESERVE FUND

1356 38. The Contractor and Contracting Officer acknowledge that the requirements to
1357 establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of
1358 Friant Division Facilities is and will continue to be administered under Contract No.
1359 8-07-20-X0356 titled Agreement To Transfer The Operation, Maintenance And Replacement
1360 And Certain Financial And Administrative Activities Related To The Friant-Kern Canal And
1361 Associated Works, dated March 1, 1998 as amended, supplemented, assigned, or renewed.

1362 MEDIUM FOR TRANSMITTING PAYMENT

1363 39. (a) All payments from the Contractor to the United States under this contract
1364 shall be by the medium requested by the United States on or before the date payment is due. The
1365 required method of payment may include checks, wire transfers, or other types of payment
1366 specified by the United States.

1367 (b) Upon execution of the contract, the Contractor shall furnish the
1368 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose
1369 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
1370 out of the Contractor's relationship with the United States.

1371 NOTICES

1372 40. Any notice, demand, or request authorized or required by this Contract shall be
1373 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1374 delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno,
1375 California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered
1376 to the Board of Directors of the Arvin-Edison Water Storage District, P.O. Box 174, Arvin,

1377 California 93203. The designation of the addressee or the address may be changed by notice
1378 given in the same manner as provided in this Article of this Contract for other notices.

1379 CONFIRMATION OF CONTRACT

1380 41. The Contractor, after the execution of this Contract, shall promptly provide to the
1381 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
1382 confirming the execution of this Contract. The Contractor shall furnish the United States a
1383 certified copy of the final decree, the validation proceedings, and all pertinent supporting records
1384 of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful,
1385 valid, and binding on the Contractor.

1386 CONTRACT DRAFTING CONSIDERATIONS

1387 42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20,
1388 subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31,
1389 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
1390 Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the
1391 parties hereto, each of whom is sophisticated in the matters to which this Contract pertains, and
1392 no one party shall be considered to have drafted the stated Articles.



Contract No. 14-06-200-229AD

1393 **IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day**
1394 **and year first above written.**

**BEFORE THE BOARD OF DIRECTORS OF
ARVIN-EDISON WATER STORAGE DISTRICT**

IN THE MATTER OF:

RESOLUTION NO. 10-18

**APPROVING AND AUTHORIZING THE EXECUTION OF A
CONTRACT BETWEEN THE UNITED STATES AND ARVIN-EDISON WATER
STORAGE DISTRICT PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES
REPAYMENT; AND AUTHORIZING COMMENCEMENT OF VALIDATION ACTION**

WHEREAS, the United States of America ("United States") has constructed and is operating the Central Valley Project ("Project") in California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of the waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries ("Project Water"); and

WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division Facilities, which will be used in part for the furnishing of Project Water to ARVIN-EDISON WATER STORAGE DISTRICT ("DISTRICT"); and

WHEREAS, the United States and the DISTRICT have, continuously, since August 30, 1962 been parties to a contract, as amended and as renewed periodically providing for water service from the Friant Division Facilities to the DISTRICT (the "Existing Contract"); and

WHEREAS, the Existing Contract provides for conversion to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939 upon completion of the Project, anticipated by 2030, which conversion would grant the DISTRICT a permanent right to a stated share or quantity of Project Water, relieve its landowners of the acreage limitation and full cost pricing provisions of Reclamation Law; and relieve the DISTRICT of tiered pricing provisions; and

WHEREAS, as a result of litigation entitled "Natural Resources Defense Council, et al. v Kirk Rogers, et al." No. CIV-S-88-1658LLK/GGH, certain Friant Division contractors entered into a Stipulation of Settlement dated September 13, 2006 (the "Settlement"), which Settlement was subsequently confirmed and implemented through Title X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), known as the San Joaquin River Restoration Settlement Act and hereinafter referred to as "SJRRSA"; and

WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, no later than December 31, 2010 under mutually agreeable terms and conditions; and

WHEREAS, the DISTRICT and United States have negotiated all substantive terms and conditions of a repayment contract entitled "Contract between the United States and DISTRICT for Project Water Service and Facilities Repayment," a true and correct copy of

which is attached hereto as Exhibit A and incorporated herein by this reference (“Repayment Contract”); and

WHEREAS, consistent with the provisions of the SJRRSA and other laws, the Repayment Contract provides that, upon execution thereof, the DISTRICT will be entitled to certain provisions to expedite water transfers; and

WHEREAS, upon making accelerated repayment of its allocated share of capital obligations required therein, the Repayment Contract provides that: (i) the DISTRICT is granted the permanent right to a stated share or quantity of water from the Project for beneficial use by the DISTRICT; (ii) its landholders will be relieved of the acreage limitation and full cost pricing provisions of Reclamation Law; and (iii) the DISTRICT will be relieved of tiered pricing provisions; and

WHEREAS, water available to the DISTRICT under the Repayment Contract will be diverted through the same Project facilities as the water provided under the Existing Contract; and

WHEREAS, the DISTRICT will continue to distribute Project Water received pursuant to the Repayment Contract through the same DISTRICT distribution facilities used in connection with water made available under the Existing Contract; and

WHEREAS, the Repayment Contract does not increase the quantity of Project Water to be made available to the DISTRICT and no additional lands within the DISTRICT will be irrigated as a result of the conversion to the Repayment Contract; and

WHEREAS, the DISTRICT intends to finance its payment obligations under the Repayment Contract through issuance of bonds or other form of indebtedness; and

WHEREAS, the Repayment Contract requires that the DISTRICT provide the United States with a final decree of a court of competent jurisdiction of the State of California confirming the validity of the Repayment Contract; and

WHEREAS, consistent with the findings herein and information compiled by DISTRICT officers, staff and/or consultants for the Board of Directors’ consideration, the DISTRICT has determined that conversion from the Existing Contract to a Repayment Contract with the United States is exempt under the California Environmental Quality Act, pursuant to sections 15261, 15301, and 15061 of Title 14 California Code of Regulations because the conversion: (i) is merely a continuation of a project previously approved, funded and operated prior to November 23, 1970 and no modification or alteration in the Project, the DISTRICT distribution system, lands irrigated within the DISTRICT, or the amount of water delivered is proposed; (ii) is consistent with the Project Water entitlement granted to the DISTRICT prior to April 5, 1973 and does not involve a greater degree of responsibility than did the Existing Contract or previous water service contracts with the United States; (iii) provides for the ongoing operation and permitting of existing public facilities involving negligible or no expansion of use beyond that contemplated under the Existing Contract; and (iv) do not have the potential to cause a physical change that will have a significant effect on the environment; and

WHEREAS, the Board of Directors has reviewed the Repayment Contract and finds that conversion from the Existing Contract to the Repayment Contract is in the best

interests of the DISTRICT and its landowners, and that the Repayment Contract should be executed in substantially the form attached as Exhibit A hereto, which execution shall not occur until the DISTRICT completes proceedings necessary to validate the Repayment Contract and obtains financing of its repayment obligations under terms satisfactory to the Board of Directors; and

WHEREAS, federal law requires that the Repayment Obligation (as defined in the Repayment Contract) be determined according to the Treasury Rate (as defined in the Repayment Contract) on October 1, 2010; Exhibit C1, C2, and D of the Repayment Contract, which set forth the Repayment Obligation of the District, are based upon the current Treasury Rate; adjustments to the Treasury Rate could occur before October 1, 2010, and such adjustment would require corresponding adjustment of the Repayment Obligation currently described in Exhibit C1, C2, and D prior to execution of the Repayment Contract; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors:

1. Determines that the foregoing recitals and findings are true and correct, and incorporates them herein by this reference; and
2. Approves and authorizes execution of the Repayment Contract by the President and Secretary in substantially the form attached hereto as Exhibit A, which execution shall be subject to and occur upon: (i) the successful completion of proceedings necessary to validate the Repayment Contract; (ii) the final determination of the Treasury Rate on October 1, 2010 and the resulting final determination of the Repayment Obligation set forth in Exhibits C1, C2, and D of the Repayment Contract; and (iii) the DISTRICT obtaining financing of its repayment obligations under terms satisfactory to the Board of Directors; and
3. Authorizes and directs the DISTRICT'S legal counsel to initiate and prosecute a validation proceeding pursuant to Code of Civil Procedure section 860, et seq., as necessary to confirm the validity of the Repayment Contract, and to do all things necessary and appropriate to prosecute said action; and
4. Authorizes and directs the DISTRICT'S officers, staff, legal counsel, and/or consultants to file a Notice of Exemption pursuant to CEQA concerning the Repayment Contract, in accordance with the information compiled by DISTRICT officers, staff and/or consultants for the Board of Directors' consideration and the findings memorialized in this resolution; and
5. Authorizes and directs the DISTRICT'S officers, staff and consultants to provide certified copies of the foregoing resolution to the Bureau of Reclamation; and
6. Authorizes and directs the DISTRICT'S officers, staff and consultants to take all additional actions they deem necessary or appropriate to facilitate the conversion to the Repayment Contract and obtain appropriate funding to satisfy the Repayment Obligation; and

BE IT FURTHER RESOLVED that until the Repayment Contract in substantially the form as Exhibit A is executed by the DISTRICT and the United States, the Existing Contract shall continue in full force and effect in accordance with its terms.

All of the foregoing, being on the motion of Director Moore, and seconded by Director Fanucchi, was authorized by the following vote:

AYES: Directors' Frick, Camp, Moore, Fanucchi, Pascoe, Johnston, and Lehr.

NOES: None

ABSTAINING: None

ABSENT: Directors' Giumarra and Valpredo.

I HEREBY CERTIFY that the foregoing resolution is the resolution of said District as duly passed and adopted by said Board of Directors on the 8th day of June 2010.

WITNESS my hand and seal of the Board of Directors this 8th day of June 2010.



John C. Moore
Secretary of the Board of Directors

